

1 UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF CALIFORNIA
3 SAN FRANCISCO DIVISION

4 ----- x

5 UNITED STATES OF AMERICA, :

6 et al., :

7 Plaintiffs, :

8 v. : CASE NO. C-04-00807 (VRW)

9 ORACLE CORP., :

10 Defendant. :

11 ----- x

12 SOME PORTIONS DESIGNATED HIGHLY CONFIDENTIAL

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15 Deposition of DAVID L. DORTENZO

16 Volume II

17 Washington, D.C.

18 Tuesday, May 18, 2004

19 9:30 a.m.

2 DAVID L. DORTENZO

3 having been duly sworn, testified as follows:

13 Q During Mr. Brown's analysis, examination, I
14 believe you testified that in many implementations
15 localizations are required?

16 A Yes, I did.

17 Q What are localizations?

18 A Localizations have to do with regulatory or
19 financial reporting requirements that are necessary by
20 local jurisdictions, whether they be governmental or
21 whether they be agencies in different countries.

22 Localizations usually require tailoring of
23 the software to manipulate data that can be made
24 available for reporting purposes for the regulatory
25 and federal agencies.

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1 Q And how is the -- the software tailored, as
2 you say?

3 A There are two ways the software might be
4 tailored. We might take data from the database and
5 create a specialized report that would report that
6 data and that information for the purposes.

7 In some cases, depending on the business
8 requirements associated with that localization, it may
9 require custom reporting. So, it might require some
10 actual customization, software customization in
11 certain cases, or reporting customization, so that the
12 requirements can be met.

13 Q What is software customization?

14 A Software customization is the process
15 whereby a technologist will go into the source code
16 and they change to the source code so that the means
17 of manipulating the data would be different than what
18 was originally shipped with the software package.

19 Q And is that something Deloitte does?

20 A We, on rare occasion, will do that. It's
21 not a core part of our business.

22 Q Does Deloitte perform localizations for
23 clients?

24 A We do do perform -- sorry -- we do perform
25 localizations for our clients. We may do that -- we

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1 may do the requirements and hand off the technical
2 development to either one of our subcontractors or a
3 third party. Again, we do that on our own basis.

4 Q But Deloitte would hire a subcontractor to
5 do that?

6 A That's right.

7 Q Are localizations required for Oracle,
8 PeopleSoft, SAP and Lawson software?

9 A Yes, they're required. They're usually,
10 independent of the software, they're required by the
11 local governing bodies.

12 Q I've seen in the -- in some of the
13 documents produced by Deloitte reference to, I think,
14 it's a fit-gap analysis?

15 A Yes.

16 Q Are you familiar with that?

17 A Yes, I am.

18 Q What is a fit-gap analysis?

19 A Fit-gap analysis is a part of our system
20 development life cycle methodology, it has to do with
21 business requirements. And typically what we will do
22 is we'll go into a client environment, and we'll
23 understand their business requirements, understand
24 what their intended business process work flow would
25 be, what data is required to support that work flow,

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1 and what reporting or information management might be
2 required to support that business process.

3 Typically that constitutes a requirement
4 specification. We take the requirement specification,
5 in some cases -- well, in all cases, I guess -- and we
6 will map that software or that specification to the
7 software to understand how the business software will
8 support those business process requirements, the data
9 requirements for the information management
10 requirements.

11 The result of which ends up as a gap
12 analysis or a fit analysis. So if the software
13 inherently fits the business process, at all, then
14 there's a fit. And if there is a lack of fit or the
15 fit is not quite as expected by the client
16 organization then that would result in a gap and we
17 would call it, obviously, a gap.

18 So it's a fit-gap analysis that would
19 correspond to the business requirements that would
20 identify where there might be fits or gaps.

21 Q And if there's a gap you call that out for
22 the client?

23 A We will do that, yes.

24 Q And what will you -- will you make any
25 suggestions to the client in terms of what can be done

00294

1 to fill the gap?

2 A We do do that. It's not automatic that we
3 would do that. Sometimes the clients are looking for
4 a degree of fit with a particular software vendor.
5 Sometimes they're looking for the actual solution of
6 how to get around that.

7 There could be different ways to resolve
8 that particular issue, some of which involve changing
9 the client's business processes. If they are --
10 sometimes they're anti customization. They don't
11 really want to pay for or they're concerned with the
12 risk of customization in terms of maintenance and
13 reliability, so sometimes they won't even go that far
14 in terms of identifying the resolution of a particular
15 gap. They may change their business process.

16 On the other hand, we do understand what
17 the gap might entail, and different ways to work
18 around that gap or different ways to resolve that gap,
19 sometimes, which would result in the customization
20 which would require specification of design and build,
21 etcetera.

22 Q When you say some clients are anti
23 customization, what do you mean?

24 A There's -- basically when the software is
25 shipped -- when the software is sold, I should say --

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1 all the clients that I've ever dealt with have bought
2 these software vendors' maintenance that goes along
3 with that software package.

4 The software is updated by the software
5 vendors on a periodic basis, and the basis can vary by
6 particular vendor. Customization may entail the fact
7 that that source code, as I mentioned earlier, could
8 be changed.

9 If that source code, if it's the case that
10 the source code is changed, and the software vendor
11 comes out with a subsequent release of the software or
12 an updated version of the software, or a patch of the
13 software, that software update, patch or release might
14 interfere in the event that a customization had been
15 made to the software. And, therefore, the client
16 would not be able to maintain its course very easily
17 on the maintenance program that the vendor has set up.

18 Therefore, if clients have a concern that
19 they're not going to be able to be enabled by the
20 release process, and that a customization might,
21 perhaps, interfere with that release process, they may
22 be hesitant to customize or hesitant to -- to follow
23 that course of action.

24 Q And they're hesitant because they're
25 worried that they will have to spend additional

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1 dollars down the road when new releases or patches or
2 upgrades come out to do further customization?

3 A That is correct. Depending on the degree
4 of customization they might be worried that they fall
5 completely off of that vendor's migration strategy for
6 a longer period of time.

7 So if the degree of customization is high
8 or longer in the front end, and it becomes difficult
9 to maintain the software product based on the vendor's
10 release strategy, then they would have to spend time
11 or dollars or schedule interruptions or maybe business
12 interruptions, depending on the degree of
13 customization, and if the magnitude of that process
14 grows to a point where it's unmanageable from a cost
15 or business perspective then the clients would not
16 want to be on that path, typically.

17 Q Could you give me some examples of clients
18 that you're aware of, of Deloitte, that are anti
19 customization?

20 A Well, I would say by and large the going in
21 position of clients, nowadays, is to be anti
22 customization. So, I would say in most cases,
23 generally speaking, our clients will be anti
24 customization.

25 When we do the fit-gap analysis, and we

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1 talk about solutions in the event that a client is
2 unwilling to change their business processes, then if
3 a customization is even feasible what we generally do
4 is go back with a client and go through a business
5 case analysis that says if they're going to spend "X"
6 amount of dollars to make this customization then why
7 should they do that, this is generally a question we
8 usually ask our clients to ask themselves internally,
9 in that process we encourage senior managements in our
10 client organizations to go back and investigate what
11 good business rationale might exist for them to
12 undertake that customization process.

13 In some cases, not all cases, our clients
14 will proceed with customizations. In the event they
15 proceed with customizations, and there are some
16 examples of clients who have declined and denied those
17 customizations and tried to stay pure vanilla, or some
18 of the clients who have actually gone on and done
19 customizations. So, there's examples on both sides of
20 the equation, Chris.

21 Q Is it fair to say that part of your
22 practice at Deloitte is advising clients on how to
23 change their business practices in order to, in the
24 sense, fit the software?

25 A That -- that is the case.

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1 Q And could you explain that, please?

2 A Well, yes, the vendor software that's on
3 the marketplace today is very flexible from the
4 standpoint of there are multiple means of configuring
5 that software to satisfy business requirements.

6 It's our job to try to make those
7 implementations go as smoothly as possible. And one
8 of the best practices in making it go smoothly is to
9 try to avoid the customization path.

10 What we will do is understand that
11 flexibility that's associated with the software
12 product. And we will try to explain different
13 methods, i.e. that flexibility to our clients, so that
14 they understand the various alternatives in setting up
15 that software to meet their business processes.

16 If it's the case, again, that that software
17 doesn't exactly meet their requirement, we might talk
18 about customization, in which case, again, we try to
19 weigh the pros and the cons, whether it be costs or
20 whether it be maintainability, at some point, and then
21 try to make the best decision for the client
22 situations in that case.

23 If we decide against the customization then
24 it almost always requires a client to go back and
25 adjust its business processes so that they can avoid

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1 that customization.

2 Q And when you're talking about degree of fit
3 in terms of software from Oracle, PeopleSoft or SAP,
4 are you talking about the fact that those software
5 packages will not necessarily meet all of a client's
6 needs?

7 A Let me try and understand your question.
8 If we're talking about those four products when we go
9 through fit-gap analysis probably in all cases those
10 softwares won't meet a hundred percent of the
11 requirements, but the concept is that the -- those
12 software products will meet a great degree of those
13 requirements. And a great degree could mean anything,
14 at least in my mind, from probably 75 to 85, 90
15 percent.

16 In all cases none of these software
17 products, to my knowledge, have all the report
18 requirements configured. So, there is, in each and
19 every implementation that I've ever been involved
20 with, in all the different vendors that I've worked
21 with, there's always tailoring in the software that
22 has do with that flexibility and different options;
23 there is reporting required that is I like to call it
24 personal or more related to a particular company's
25 needs; and the vendors can't have everything available

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1 for all those companies.

2 So when we talk about 75 or 85 percent a

3 lot of the difference has to do with the fact that the

4 tailoring the software and doing some of the

5 reporting, and in some case that customization will

6 also be part of that.

7 Q And part of -- part of Deloitte's role is

8 to -- is to take the software from meeting 75 percent,

9 let's say, of the client's needs, and providing

10 bolt-ons and whatever else the client might need in

11 order to try to achieve the client's business

12 objectives?

16 Q I'm talking about software from SAP,

17 Oracle?

18 A It is our job to try to take that software,

19 as delivered from the vendor, and make it, through our

20 business transformation approach, tailor it as close

21 to the client's business needs as we possibly can.

22 Q And part of that might be with what I think

23 you testified last time are called blot-on products?

24 A There could be bolt-on products involved.

25 I think the example we talked about, one example, was

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1 Vertex, which might be specific tax functionality
2 sales and use tax functionality.
3 So, we might take another piece of software
4 from another vendor and interface that into the
5 applications architecture or the solution that we're
6 driving for that particular client, and that might be
7 part of the solution set that we use to meet the
8 client's requirements.

9 Q Are you aware of any sort of standard
10 formula that estimates the amount of implementation
11 costs as a multiple of software license fees?

12 A Formula might be a more formal term than I
13 would use. There are some rules of thumb, if you
14 will.

15 Q Sure.

16 A Those rules of thumbs vary depending on the
17 company's complexity and its architecture and the
18 nature of its operation.

19 I have heard rules of thumb, over the past
20 ten years, that have changed, that have reduced as the
21 market's become more competitive.

22 Initially those rules of thumb were
23 probably three to five times the magnitude of the
24 software cost, today I would say the range is probably
25 closer to one to three times, three being pretty much

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1 on the high end.

2 Q And --

3 A But, again, it depends, it goes back to the
4 company's operations complexity and requirements.

5 Q Sure. The more complex the company the
6 more --

7 A Higher --

8 Q The higher the multiple?

9 A That's right.

10 Q And when you say that the rule of thumb has
11 come down from approximately three to five times
12 software license fees to one to three times, you
13 referred to competition, is that competition from
14 BearingPoint, people like that?

15 A I think it's competition on two levels.
16 The software products continue to sophisticate and
17 enhance their functionality, so over time, and this
18 period that I talk about is probably the last 10 or 15
19 years, the software vendors have sophisticated their
20 products so they are more readily developed to meet
21 the company's needs.

22 The second aspect of the multiplier, the
23 change in the multiplier, is the fact that there are a
24 lot of integrators who are trying to develop
25 pre-defined solutions that are trying to compete using

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1 offshore technologies, and things like that, that have
2 driven the costs of the implementations lower and
3 therefore the multipliers are coming down, the
4 competition has increased.

5 So we're all looking for ways to implement
6 these products on a more rapid basis with less
7 customizations, if possible, and with reduced
8 schedule.

9 Q You used the word integrators in your last
10 answer, what are integrators?

11 A When I saw integrators I refer primarily to
12 company's like Deloitte, also the BearingPoints that
13 you mentioned, could also be IBM, could also be some
14 of the implementation boutiques or their companies,
15 such as EDS, who have Oracle implementation or SAP
16 implementation practices, companies like that.

17 So when I say integrators there's usually a
18 role for a particular external service provider that
19 has to do with trying to take their Legacy
20 environment, manage the introduction of new software
21 products, or any of the bolt-ons and trying to tie
22 that all together, which is the integration job,
23 therefore, system integrators.

24 Q Are you familiar with a company called CSC?

25 A I am, yes.

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1 Q Is that an integrator?

2 A It is an integrator.

3 Q While you've been at Deloitte have you been
4 involved in any implementations of software where the
5 client has used someone other than a Deloitte or
6 BearingPoint, and Accenture, one of the big five
7 consulting firms, to do basically to conduct the
8 software evaluation?

9 A Let me -- restate that for me, Chris. I
10 want to make sure I understand.

11 Q Sure. I want to figure out when you
12 conduct an implementation at Deloitte if you've become
13 aware that a client has used someone other than a big
14 five consulting firm to help it in the software
15 evaluation, maybe it's a Gartner, maybe it's a CSC, or
16 whomever it might be?

17 A We do have situations like that. We have
18 situations, for example, in the public sector, where
19 the firm that might be involved in the selection
20 activity is precluded from doing the implementation
21 starting a little bit on those implementations.

22 Our clients do, it's a growing trend, make
23 more and more use of Gartner and the Meta group, and
24 other firms like that, who are third-party evaluators
25 of the software products that try to understand its

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1 capability and its reach in a particular market, how
2 well it might fit in a particular market. And, yes,
3 we have been involved in a situation where those
4 companies have advised our clients.

5 Q And have you spoken with any of those
6 clients about why they've chosen to use Gartner over
7 Meta Group or some other entity in the evaluation
8 process?

9 A Gartner is the firm that is top of mind,
10 and probably most respected from the research firms
11 vantage point within the software industry. So
12 Gartner becomes the top of the pile, if you will.

13 Some of the other companies have imitated
14 what Gartner has done or they've tried to create niche
15 practices around research that may deal in certain
16 topics, like advanced planning and scheduling, and
17 they may try to exploit a particular business area in
18 an effort to throw their competitive position against
19 the Gartner, but Gartner appears to be or is the known
20 commodity in the business.

21 Q Are you familiar with an SAP product called
22 NetWeaver?

23 A I'm not familiar with it, I've heard of it,
24 but I don't know anything about the product.

25 Q What about Hyperion, are you familiar with

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1 that product?

2 A I am familiar with that product, it's

3 H-y-p-e-r-i-o-n.

4 Q What is Hyperion?

5 A Hyperion is a software product that is

6 utilized for financial reporting or consolidation

7 purposes. It is -- it is also used as a data

8 warehousing or a data management tool set in that when

9 you install Hyperion inside your application

10 architecture, and within your software environment,

11 you would extract data through the Hyperion product,

12 manipulate that data, and use that particular tool to

13 format the different reports and information that's

14 required from the systems, from the Legacy systems or

15 the new software products.

16 Q Is Hyperion sometimes used by corporations

17 that have acquired divisions or subsidiaries that have

18 existing Legacy systems that may not be the same as

19 the system that the -- that the headquarters is using?

20 A That is.

21 MR. BROWN: Vague. Objection, vague.

22 BY MR. YATES:

23 Q You may answer.

24 A That is the case. I've seen it used a

25 number of times in that capacity.

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1 Q How is it used in that capacity?

2 A Company officers are interested in making
3 sure that they report their financial results,
4 particularly when they're governed by the SEC. And,
5 as such, when merger acquisition activities takes
6 place, consolidation activities take place, those
7 financial officers, in particular, are interested in
8 making sure that they have a certain amount of
9 reliability on both their business systems and their
10 business processes so that they can report on those
11 requirements and those regulatory requirements
12 appropriately.

13 A lot of times a Hyperion product will be
14 installed into that particular type of situation.
15 And, as I explained earlier, that data will be input
16 or extracted from Legacy systems into Hyperion and
17 then utilized for reporting purposes.

18 A lot of times that can be -- if I can
19 think of the term -- can be an interim, an interim
20 strategy that CFO's do deploy in these particular
21 situations.

22 So that until a company can either decide
23 what its capital spend will be on these systems or can
24 decide what its information strategy will be the
25 Hyperion solution will maintain the plan for reporting

1 requirements, in the meantime.

15 Q And talking -- let's talk a little bit

16 further about , as I understood your

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17 testimony had a full Oracle suite in

REDACTED

18 place?

19 A They did in their Legacy software

REDACTED

20 systems.

21 Q And the side had a full SAP system in

REDACTED

22 place?

23 A That's correct.

24 Q And by full ERP I mean it had financial

25 management software, CRM's, supply chain, and human

00309

1 resource.

2 A ERP, to oil and gas, usually infers to back
3 office accounting functionality, it would include
4 human resource functionality, it would include the
5 downstream business operations, which I think they may
6 have mentioned last time is everything from the
7 refinery gate.

8 So, once the crew comes into the refineries
9 and starts to leave the gate as gas, however that be
10 shipped, whether it be freighter or pipeline,
11 etcetera, everything from the refinery gate through
12 the retail operations, not necessarily including the
13 retail operations, but through the front door of the
14 retail operations, some of the retail functionality
15 was targeted functionality for growth within the SAP
16 and the Oracle applications in those particular cases.

17 But primarily it was back office and
18 downstream operations, did not include upstream
19 operations, which is the refined or the research and
20 development and the exploration up to the final point.

13 Q And I believe we established last time that
14 PeopleSoft does not have functionality for the oil and
15 gas industry; is that correct?

16 A That is my understanding, yes.

17 Q Is it -- is it fair to say that the term
18 ERP can have a different meaning in oil and gas
19 industry, as opposed to discrete manufacturing?

20 A Yes.

21 Q And I believe you testified last time that

22 -- that Deloitte conducted an analysis for

REDACTED

23 of whether should migrate

REDACTED

24 its Legacy operations to a -- to an SAP

REDACTED

25 application; is that correct?

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1 A The job that was referenced, the project
2 that was referenced, was an ERP strategy study. And
3 the ultimate question was because Legacy ran on
4 Oracle, which I think we established last time was a
5 product that had developed and then sold to Oracle.

REDACTED

6 Q Right?

7 A And that Legacy operations ran on
8 SAP, the question in the CFO's mind, who was our
9 client, was it's going to cost a lot to put both of
10 these operations onto a single platform, because I
11 have two extremely large corporations that we're
12 pulling together.

REDACTED

13 So, my question, paraphrasing him, my
14 question as the CFO would be does it make sense for me
15 to have a single platform or not, does it make sense
16 for that platform to be either SAP or Oracle, and if
17 it doesn't make sense for me to consolidate onto that
18 platform then what would I do.

19 So, that was the purpose of the study. And
20 the result of the study was that over the longer term
21 it did make sense to consolidate onto a single
22 platform, that that would be a multi-year strategy.
23 The cost would be very large, in the hundred, hundred
24 to 200 million dollar range, and that on an interim
25 basis that they could absolutely pursue a strategy of

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1 utilizing, both of those products in a hybrid
2 environment, and that they could establish strategy
3 around middleware to consolidate some of the
4 information from those environments where they needed
5 to for consolidation or for operational reporting
6 processes.

7 Q Do you recall when Deloitte conducted that
8 study.

9 A That study was conducted July of 2000, it
10 began, maybe, in May of 2000, and it actually went on
11 for probably by way of our system accounting probably
12 about nine months.

13 There were a couple of phases to it. And
14 the first phase was about four to six months, and then
15 there was some subsequent activity involved around it.

16 Q So, it's fair to say that it was probably
17 over in the first quarter, first quarter of 2001?

18 A That's right. That's right.

23 Q Did you have an understanding of whether
24 has migrated to an SAP platform or any full suite
25 platform?

REDACTED

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1 A It's my understanding that they have not
2 migrated their operations entirely onto SAP, at this
3 point in time.

4 Q And you mentioned they pursued of some
5 middleware strategy, instead. What do you mean by
6 middleware?

7 A Middleware is a technology that's
8 associated with the integration of different
9 technology, whether they be technology infrastructure
10 or software environments.

11 And middleware provides a technical means
12 of extracting data, manipulating that data and
13 reformatting that data so that it's able to be used
14 within a different environment.

15 So, it, in essence, ties together systems
16 and can be used to extend particular functionality in
17 those Legacy system architectures so that a company
18 could deploy a middleware strategy and further evolve
19 some of the functionality that it has as an
20 alternative to displacing softwares.

21 Q Is it -- is it fair to say that , for REDACTED
22 capital expenditure reasons, elected to pursue the
23 middleware strategy at least for some period of time?

24 MR. BROWN: Objection. Never mind, I
25 withdraw the objection.

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1 A pursued that strategy more so because of
2 the scale of their operations and the need, based on
3 the consolidation of these two corporate entities, the
4 need for extended functionality and reporting.

REDACTED

5 The SAP implementation and strategy that
6 eventually was developed would be that the
7 organization would migrate to SAP over a period of two
8 to three years.

REDACTED

9 So, the challenge for that CFO became what
10 do I do in the meantime, where I need to have
11 improvements made to my business or to my information
12 technology infrastructure, again, either software or
13 hardware.

14 So, he was not willing to necessarily stand
15 still. And there were a lot of Legacy applications
16 that had been developed in the environment that
17 were very germane and very specific to the business
18 requirements that existed in the oil and gas sector,
19 because many of the software vendors had not evolved
20 their softwares along that capability.

REDACTED

21 So, there were some very unique and very
22 well developed software, in-house software, I should
23 say, that had high levels of utility and low degrees
24 of technical sophistication that were still very good
25 tools, from a business perspective.

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1 So to try to leverage those particular
2 tools, without having to traverse that whole two to
3 three year implementation timeframe, they might take
4 some of those Legacy applications that were highly
5 functional and then leverage them into that
6 environment by use of middleware, or by sending that
7 functionality through some of the development that
8 went along with the middleware.

9 Q Do you have an understanding of what sort
10 of internally developed in-house software was being
11 run at ?

REDACTED

12 A I do have an understanding. One example
13 would be in their supply function. So, as they tried
14 to -- they tried to forecast their business
15 requirements around production, around what the supply
16 side of the business might require from the standpoint
17 of gasoline production into the different markets that
18 they served, they would certainly try to forecast
19 those production requirements and then manage
20 backwards into its inventory.

21 There were some, and then, of course,
22 supply then leads backwards into the distribution
23 function into the terminals back to the refinery and
24 back to the upstream operations.

25 So many of the operational business

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1 processes that they had were supported by some of
2 these home grown, in-house developed software tools,
3 and that's where a lot of the functionality existed,
4 mostly around the operations as opposed to some of the
5 back office functionality that we've talked about.

6 Q Shifting gears a little bit, while you've
7 been at Deloitte have you been involved in some
8 evaluations of software for clients?

9 A I'm pausing because I'm trying to think
10 back over the ten-year period and whether I've
11 actually ever done a selection project in my tenure at
12 Deloitte. And I can pretty assuredly tell you that I
13 have not.

14 Q Okay.

15 A It's, again, when I came into the firm the
16 policy was that we tried to avoid software selection
17 types of projects and that we focused on the
18 implementation based on the revenue stream associated
19 with that part of our business.

20 Q The implementations of a more attractive
21 business?

22 A That's correct. That's correct. And the
23 software vendor always gets upset when he did a
24 selection. So as we partner with software vendors in
25 certain cases it's a difficult balance to strike,

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1 sometimes, when they come head to head in competition.

2 Q And that's because Deloitte has alliances

3 with SAP and with Lawson and with Oracle and with

4 PeopleSoft?

6 Q Are you aware of instances from your

7 implementation work or just your general experience in

8 which clients have decided to defer purchases of ERP

9 software because of budget reasons?

10 A Yes.

11 Q And can you give me some examples?

12 A A couple of different categories I think

13 that answer could fall into. Sometimes the company's

14 overall economics might fall upon hard times and they

15 may shift expense so an ERP system selection, or

16 system decision, I should say, becomes deferred.

17 Correspondingly, if the software's been --

18 in 's case this was part of the issues -- the

REDACTED

19 software spend was significant so when a CFO tries to

20 understand how he's going to budget a hundred fifty or

21 200 million dollar project that requires some careful

22 planning, that requires some fiscal planning and is

23 material in terms of a company's business, so they

24 proceed very carefully and they may defer.

25 Sometimes our clients will become aware

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1 from a research and development perspective of what a
2 company is evolving their product towards, and
3 sometimes they will make a decision to either maintain
4 their Legacy environments or not migrate to a new
5 software product because they really believe that it
6 might be a better strategy to wait until that next
7 software release, because something new is coming, CRM
8 functionality might be coming, and why take another
9 brand in the situation when maybe I could stay on that
10 single vendor platform and it would make certain
11 things easier.

12 MR. BROWN: I'm going to object to the
13 answer and move to strike on the grounds that it's not
14 -- it's vague as to the reference as to ERP. We had a
15 discussion about CRM, for example.

16 BY MR. YATES:

17 Q In your -- in your answer, when you were
18 referring to ERP, what did you mean, sir?

19 A ERP, to me, is financial and back office,
20 as well as the operational and the supply chain
21 management. I'm sorry, operational is -- let me
22 restate -- financial and HR, from a back office
23 perspective, supply chain management as well as
24 customer relationship management is what I think of
25 when I think of ERP.

00319

1 Q And that's the way you were referring to
2 ERP in your answer?

3 A That's the way I was referring to it in my
4 answer.

5 Q Now, were you done with your answer before
6 there was an objection?

7 A I believe so, yes.

8 Q Okay. Is the -- is the decision to defer
9 purchase of ERP software is that -- is that sometimes
10 referred to as a -- as a do nothing choice?

11 A Could be referred to as that, sure.

12 Q To your knowledge, if -- if a company is --
13 is evaluating new ERP software, or upgrading its ERP
14 software, will the -- will the company ever threaten
15 to do nothing in order to try to obtain a better price
16 from the software vendors?

17 MR. BROWN: Lack of foundation, vague.

18 A I don't know that I've seen that to be the
19 case. I guess I don't recall an executive ever having
20 a discussion with me in that particular situation
21 where they have tried to utilize that strategy to
22 reduce the software price or the implementation price.

23 Q Deloitte's clients are pretty much all
24 large organizations, correct, over 500 million dollars
25 a year in revenue I think you testified last time?

00320

1 A That's a fair statement. That's a fair
2 statement. We do have clients that are smaller than
3 that. We do have a strategy in place right now to
4 evaluate the smaller market segment to determine if a
5 client does not meet that threshold why would we go
6 after that particular -- why would we pursue that
7 client. We will pursue those clients if there's good
8 business rationale to do that.

9 Q And what are some of the factors that you
10 will consider when you look at clients under 500
11 million dollars a year, annually?

12 A We will look at where they're at in terms
13 of their gross strategy. We will look at where
14 they're at in terms of their market, it might be a new
15 entry to a new market to us.

16 We also look at whether or not it makes
17 sense to implement that particular implementation, and
18 if we can do something for our internal business, if
19 we can grow our business depth or our staff to have
20 greater skills in a certain particular area supply
21 chain in our HR, any of those types of things, those
22 are usually the reasons.

23 Q I realize you haven't been involved in the
24 software evaluation, but have you ever discussed with
25 any -- any clients or advised clients on how they

00321

1 might obtain the best price for ERP software?

2 A Yes.

3 Q Okay. And what do you tell clients?

4 A The biggest secret over trying to obtain
5 preferred pricing is to, if the timing is right, to
6 try to time your purchase towards that software
7 vendor's year end or quarter end, in that particular
8 order. That's -- that's really the primary leverage
9 point.

10 I guess the other -- the other leverage
11 points that we advise our clients on is depending on
12 how well established that particular software vendor
13 might be in a particular marketplace, then the clients
14 sometimes have leverage, or if the clients are in a
15 situation whereas we discussed before, the software
16 vendor might be evolving its product to a new set of
17 functionality, or a new solution, sometimes the
18 clients can obtain preferred pricing by being first or
19 by being an early adopter is probably a better
20 business term to use.

21 Q Any other advice that you can recall giving
22 to clients, other than I think the three or four
23 categories you've mentioned?

24 A The other thing that we might entertain is
25 sometimes we're aware of -- sometimes we're aware of

00322

1 what the discount structure has been for a particular
2 software products, and we may -- a client may say,
3 gee, I've got a discount of "X" percent, do you think
4 that's good or bad.

5 And sometimes we may offer an opinion that
6 in this industry we've seen it vary from Y to Z, but
7 generally speaking that's a pretty broad range, and
8 general information.

9 So, it's -- it comes down to the specific
10 client's application of that particular software
11 product, and some of the pricing factors, and as the
12 pricing methodologies change within the software
13 vendors, radically and often, it's -- it's hard to
14 give a lot of logical advice and try to stay on the
15 business side of logic, so it becomes a little bit
16 more subjective in that case.

17 Q You first talked about trying to time
18 purchases towards year end or quarter end, why would
19 that be advantageous to a client?

20 A The software vendors have to report their
21 earnings, quarterly releases or annual releases, to
22 maintain its shareholder value for its stockholders.

23 So, there has always been phenomena in the
24 industry where there is a push within the software
25 houses to try to maximize the amount of sales that are

00323

1 going through that particular company at those times.

2 So the company can enhance its financial

3 reputation, its business reputation, or its market

4 reputation, if it continues to post strong results at

5 that quarterly or year end basis.

6 Q And a client might be able to obtain a

7 better price at a quarterly or year end?

8 A That's correct, and the sales people,

9 generally speaking, are trained accordingly, and they

10 know that they're rewarded accordingly.

11 So the sales people become more aggressive

12 in terms of their deal making capabilities and

13 interests at those time frames.

14 Q And when you are talking the sales people

15 you're talking about, for example, an SAP sales

16 person?

17 A An SAP sales person or PeopleSoft sales

18 person or sales management, as well.

19 Q And when you say that they're rewarded do

20 you mean that their compensation is dependent, at

21 least in part, on sales?

22 A That's absolutely the case.

23 MR. BROWN: I object on foundation, here.

24 BY MR. YATES:

25 Q What's the basis of your understanding that

00324

1 the sales people are rewarded on at least in part or
2 compensated in, at least in part, on sales?

3 A I've seen actual comp plans of the sales
4 people and understand how they are paid from a salary
5 perspective.

6 And there are tiering plans. There are
7 levels that if a software sales person achieves a
8 certain amount of sales their bonus structure may
9 increase over time.

10 So, again, sometimes you might find a sales
11 person being more aggressive in a particular quarter
12 because he's real close to the next threshold, so that
13 person, he or she, may really want to get that deal
14 done and may try to lever that into the -- the
15 equation, into the transaction, I should say.

16 Q And I believe you testified that another
17 leverage point was how established the vendor is in a
18 particular marketplace or vertical?

19 A I did say that.

20 Q And how would that -- how would that impact
21 the advice that you give to clients in terms of trying
22 to obtain the best price from the vendor?

23 A What we would try to do in that situation
24 is help a client appreciate -- a good word -- what the
25 software vendor's position is in a particular market

00325

1 segment.

2 If that vendor is trying to exploit a piece
3 of that segment or that entire segment then we will
4 want to point out to the client their value of being a
5 piece of that software vendor's client portfolio.

6 So, if a client is a new entrant for that
7 particular software vendor's marketplace then they may
8 be able to negotiate a more advantageous discount in
9 the software purchase or the implementation, for that
10 matter, as well, works against us, as well.

11 Q And you also said another potential
12 leverage point for -- for a client, at least that you
13 might advise a client on, is whether the vendor had an
14 evolving product; what did you mean by that?

15 A If a vendor is -- if a vendor has its
16 product in its research and development function, or
17 is trying to, I used the term earlier, sophisticate
18 its product or is trying to extend its functionality
19 in a particular application that exists today, we've
20 talked about localizations as an example, some of the
21 software vendors are evaluating whether it makes sense
22 for them to try to develop the capability to deliver
23 that localization functionality off the shelf, as a
24 term, readily available to the marketplace is what I
25 mean by that, that's an example, or sometimes the

00326

1 vendors might be evolving their human resource
2 products along the lines to manage and set up
3 compensation, as we used the example of our sales
4 person in the vendor sales. They look to evolve
5 further their products along the business process
6 continuum that's out there.

7 If a company is evaluating its business
8 requirements, as we talked about fit-gap earlier, and
9 a software vendor's product is not as evolved in a
10 certain place and the software vendor determines that
11 it might be advantageous for its business to leverage
12 its research and development or its software
13 development capability to further build that product,
14 sometimes that software vendor will approach a
15 prospect, a client, and suggest that they might want
16 to partner or venture together to undertake that new
17 software development.

18 And that might result in a preferred
19 pricing, or it might result in the application of the
20 software to that client's situation, even on a gratis
21 basis, so that that client becomes, again, number one,
22 and becomes somewhat of a proof concept or a showcase
23 for that particular vendor, which might be a means of
24 opening a new market to that vendor and, therefore, a
25 new revenue stream and, therefore, quarterly results

00327

1 and, therefore, shareholder value.

2 Q I've heard the term shelfware used in
3 connection with software, are you familiar with the
4 use of that term?

5 A I'm familiar with it.

6 Q What's your understanding?

7 A Shelfware, from a software delivery
8 perspective, would mean that a software vendor's
9 product, as delivered to the particular client, would
10 be able to be used or applied to its business
11 processes or requirements straight from the shelf,
12 without customization. Without customization is
13 probably the best way to put it.

14 The other term I've heard the term
15 shelfware used for, Chris, is where a vendor might
16 sell an entire product suite to the client, and the
17 client doesn't take advantage of the entire suite,
18 supplemented by its financial HR applications they put
19 the finance in and the HR applications are not
20 installed, and they are shelfware.

21 Q And are you aware of instances in which
22 clients have purchased a full ERP suite and just
23 implemented the financials or some piece of it?

24 A Yes, I am.

25 Q And can you describe them, the ones you're

00328

1 aware of?

2 A There are -- there are any number of
3 companies, I can think of examples in Oracle as well
4 as SAP, where we have had discussions with the
5 software sales teams to understand what companies have
6 purchased and implemented.

7 And in many cases when the sales
8 transactions are being finalized the software sales
9 function of a particular software vendor might try to
10 enhance its sales offering to a particular client by
11 incorporating the entire software suite or all of the
12 applications that a software might deliver, a software
13 vendor might deliver, into a sales transaction even
14 though that company might not be looking for all of
15 those applications.

16 And in one of our Oracle clients the client
17 was offered the full suite of licenses for the full
18 number of users for the entire corporation. The
19 client bought that and continued along its
20 implementation journey to implement a subset of the
21 functionality in a subset of its employee base.

22 As that transaction -- as the
23 implementation transaction took some time, and the
24 company did not act on the balance of that particular
25 transaction, what it ended up with was a number of

00329

1 software licenses for a large number of users that it
2 hadn't implemented.

3 And, over time, because of the software
4 release and migration strategy, the software had
5 multiple patches that was released, but the company
6 didn't take advantage of those because it hadn't
7 implemented that functionality. And, therefore, that
8 software, over time, became stale or inappropriate for
9 use or not up to date.

10 So, and that's one example, and one of our
11 clients where the whole suite was sold for multiples
12 of licenses, and we do have discussions around that
13 because that might represent a particular new
14 opportunity of business for the firm, and we like to
15 be aware of that so that we might have a discussion
16 with a client to understand if there's any business
17 benefit associated with implementing those
18 applications that might be on the shelf so that they
19 generate improvements, we generate fees.

00330

25 Q During your testimony May 5th you mentioned

00331

1 a client that had implemented Oracle's general ledger
2 and had implemented that alongside I think it was its
3 Legacy AP system, do you recall that testimony?

4 A We are -- we're undertaking a project like
5 that right now, in a financial institution, yes. I
6 think that's the one that I was referencing.

7 Q Okay. And are -- my recollection was that
8 the client had elected not to implement or perhaps
9 purchase -- let me withdraw the question -- the client
10 you have in mind would you mind just naming them?

11 A . REDACTED

12 Q ? Did that client buy the entire REDACTED
13 financial suite, an entire ERP suite, or something
14 more narrow?

15 A No, they bought something more narrow.

16 Q What did they buy?

17 A They bought general ledger and accounts
18 payable.

19 Q And when -- when you purchase general --
20 that's a subset of the financial suite?

21 A Yes, it is.

22 Q And when you purchase general ledger and
23 accounts payable can you call those modules?

24 A Yes, modules, or applications is another
25 synonym.

00332

1 Q So, it's possible to buy just a module or
2 application from a vendor such as Oracle?

3 A It is.

4 MS. SABO: Let's designate any discussion
5 about financial practices as highly
6 confidential.

REDACTED

7 MR. BROWN: And, in addition, I want to
8 designate -- object -- not designate -- I want to
9 object to the characterization of the question of such
10 as Oracle as if that's implicating that you could
11 purchase the general ledger and accounts payable
12 modules from any vendor.

13 BY MR. YATES:

14 Q Are you aware of whether or not you can
15 purchase a general ledger or accounts payable module,
16 for example, from SAP?

17 A I believe that you can.

18 Q And how about --

19 A We talked last time about how coupled their
20 strategy was, but they moved to try to enable
21 themselves to have a sell strategy, where you don't
22 have to buy the entire suite of SAP. You definitely
23 can, for PeopleSoft. You definitely can for some
24 others. You definitely can for JD Edwards.

25 Q So, it's fair to say that bought, it

REDACTED

00333

1 sounds like, two modules of the financial software
2 package from Oracle?

3 A That's our understanding, right now, the
4 transaction is in process.

5 Q And your understanding is at the moment
6 they're only going to implement the general ledger?

7 A That's right, that's the first application
8 to go into their implementation strategy.

9 Q And do you have an understanding of when
10 they're going to implement the accounts payable
11 module?

12 A They were talking within a few months of
13 the general ledger, in this case.

14 Q Now, I've got on my computer the CD that
15 was Exhibit 103, I believe it was the spreadsheet we
16 looked at last time?

17 A Yes.

18 Q And I will turn it on in a minute, but if
19 we can do it without displaying the spreadsheet for
20 the moment, what I want to know is do you have an

21 understanding of how, for example, -- the

REDACTED

22 project involving implementation of just the

REDACTED

23 general ledger would be listed in the target database.

24 A Sure.

25 Q How would it be listed?

00334

1 A We list it by client name, and there would
2 be client group, if that client is a business unit
3 within a particular consolidated company. There is
4 usually a project name. There's a detailed project
5 description, so that it might say, as this example,
6 might say , and it might say as a
7 project specific general ledger implementation.

REDACTED

8 So there would be a higher to lower order
9 of information depending on the category or the column
10 that was in that spreadsheet.

11 Q So, is it fair to say that there is
12 information in the target database that concerns just
13 the implementation of one module of financial
14 management packaging?

15 A Yes, if that's the scope of what that
16 project is, and the project is being managed within
17 the firm as an individual pursuit as opposed to
18 managing a pursuit around the entire financial
19 strategy, it could absolutely be listed that way.

15 Q In these extensions, in the pharmaceutical
16 and life sciences industries, are they related to core
17 financials and core HR or are they something
18 different?

19 A It could be either, it could be financials,
20 it could be HR, or it could be I think it's been
21 referred to it as an extended footprint. So you will
22 find those business opportunities spanning the
23 software.

24 I would submit that in the financial, more
25 so than in the HR, and then definitely more so than

00337

1 CRM and supply chain. I think you find that order,
2 that financial products are the most mature offerings
3 of the software vendors, probably followed by HR, then
4 by supply chain, then by CRM. So you find more
5 opportunities at CRM, perhaps, than you might find in
6 finance, in my example.

7 Q Are you aware of instances in which a
8 client's interest in a CRM or an SCM portion of an ERP
9 suite has basically driven the purchase?

10 A Yes, I am.

11 Q And can you give me examples of what you're
12 talking about?

13 A We talked last time about , and REDACTED
14 is about a 2.1 billion dollar company in terms REDACTED
15 of its revenue size. Fifty percent of their business
16 is represented by their service function. They sell
17 automated teller machines, they sell bagging devices,
18 surveillance systems, so they sell a lot of products
19 and hardware and software to the financial services
20 industry.

21 So, while the product sales is important,
22 half of their business is around service, maintenance,
23 customer management.

24 And in their evaluation of different
25 products that dealt with that particular software

00338

1 functionality they did evaluate, on their own, several
2 different products and arrived at an Oracle decision.

3 And Oracle was keen to get that business

4 and keen to further develop its software on the basis

5 of what was going to try to use the software

REDACTED

6 for. And so that was the -- that was the situation,

7 there, that I think corresponds to your question.

14 Q Mr. Dortenzo, during Mr. Brown's
15 examination, on May 5th, I think you testified that
16 Deloitte has a separate human capital practice?

17 A It does.

18 Q Would you tell me what that practice
19 entails, if you know?

20 A Our human capital practice is oriented
21 towards both technology as well as human resource
22 management functions. And what we've done is we've
23 combined those two business functions of the firm
24 together to target human resource organizations who
25 are used to dealing with business problems that are

00339

1 much broader than technology. So, we think technology
2 is part of that solution, but we don't think it drives
3 that solution.

4 So in our business transformation driven
5 approach we try to understand all of the different
6 functions that exist in the human resources management
7 capacity.

8 And so when we talk about our human capital
9 practice or our human resource dynamics practice we
10 try to understand the management of personnel, we try
11 to understand human resource policies, we try to
12 understand things like succession planning, we try to
13 understand technology as a piece of that offering.
14 And we think that it's more advantageous to us to
15 approach the market in that particular manner.

16 So, we have made a conscious decision to
17 move our technology implementation processes that are
18 associated with human resource management into the
19 human capital practice.

20 And so, as such, my responsibilities in the
21 firm right now do not include the implementation of
22 Oracle human resource products as I have
23 responsibility for the Oracle products.

24 So we could work together with our human
25 capital practice, and the idea is we would take a

00340

1 broader business perspective into a client's situation
2 because we're not just dealing with technology.

3 Q Why do you feel that's more advantageous to
4 your clients to approach the market in that sort of
5 two pronged or multi pronged perspective?

6 A It's client driven perspective is why we've
7 done it. Our clients in the human resource function
8 don't think in terms of technology. They think in
9 terms of people.

10 So, we find in dealing with the people or
11 the management issues it's much easier to bring the
12 context of technology into the discussion than to lead
13 with technology. So, that's the primary driver.

14 Q Do you have an understanding of whether the
15 human capital practice deals with solutions other than
16 packaged software, outsourcing, for example?

17 A It will.

18 MR. BROWN: Objection, foundation.

19 A It will deal with outsourcing. We also
20 deal with outsourcing in the enterprise application
21 side of our practice. So both our human capital and
22 our enterprise application packages practice do deal
23 with outsourcing.

24 Q What kind of outsourcing do you deal with
25 on the enterprise applications side of things?

00341

1 A Enterprise applications will facilitate an
2 introduction of our outsourcing practice into a
3 client's situation when a client is doing one of three
4 things. And some of this has changed recently, so
5 I'll also talk about that change.

6 If a client is looking to entertain a
7 strategy around outsourcing we have outsourcing
8 advisory services that try to help them evaluate
9 whether outsourcing is feasible or not.

10 Today, in the firm, our outsourcing
11 practice is aligned to two particular service areas,
12 one being application maintenance outsourcing, which
13 is a follow on activity to an implementation set of
14 services where we might offer to maintain software
15 products for our clients, or we may also introduce the
16 application and the services into a client that we
17 haven't done the implementation. So, that's one
18 service area.

19 The other service area is business process
20 outsourcing. And that usually entails a client's
21 evaluation of routine business processes where they
22 may want to either supplant, supplement or displace
23 their current function with an external service
24 provider.

25 And up until this past fiscal year, or this

00342

1 past six, I should say this calendar within this
2 fiscal year, so said differently, up until through the
3 calendar year 2003, for the past couple of years, the
4 Deloitte outsourcing practice had entertained whether
5 or not it wanted to be in the hosting or in the actual
6 information technology outsourcing piece of the
7 business more similar to what a CFC or an EBS, for
8 example, might do. Whereby, we would provide the
9 technology infrastructure environment for our clients
10 to run the application.

11 So our enterprise application practice will
12 work with client's CIO's and client executives to
13 determine if there is an outsourcing play or an
14 outsourcing strategy available to our clients. And we
15 will work with them in the particular package areas or
16 we'll bring in our outsourcing capabilities to help
17 inform a client as to think about outsourcing, whether
18 it makes sense or not, in a situation.

19 Q And, still, in the enterprise applications
20 area does Deloitte consulting currently offer any --
21 any hosting of applications for clients?

22 A We are providing a hosting solution in the
23 example, as I mentioned , in the
24 example.

REDACTED

REDACTED

25 Q And what are you hosting for ?

REDACTED

00343

1 A We're hosting their Legacy environment as
2 well as their new Oracle applications that they are
3 implementing, at current.

4 Q Does that mean that you're running the
5 Oracle applications for them?

6 A Yes, it does.

12 Q Going back to the human capital or the HR
13 side do you have an understanding of what the
14 outsourcing practice there is at Deloitte?

15 A I do.

16 Q And what's your understanding?

17 A One of the services that we would provide
18 is to help a company understand if it might be
19 advantageous to outsource their particular human
20 resource functions to a third party firm, an example
21 might be an ADP, for payroll services, or it might be
22 to a towers parent for benefits administration.

23 So we will, again, become involved with our
24 executive human resource -- resource clientele to help
25 understand what their overall business strategy is,

00344

1 what their internal capabilities are, whether or not
2 an external service offering may make sense or be
3 feasible from a cost perspective.

4 And then we may advise them on who to
5 contact in a particular situation, for me in the
6 capital perspective, as they evaluate different
7 service offerings.

8 Q And using as an example I believe
9 you testified during Mr. Brown's examination that the
10 considered outsourcing its HR function to ADP?

REDACTED

11 A Yes, it is.

12 Q And it didn't make -- it did consider
13 outsourcing?

14 A It is still evaluating that decision. It
15 is evaluating, more so, its payroll strategies as part
16 of its human resource suite.

17 Whether or not they should outsource the
18 payroll applications that were going to exist in the
19 other than US, or their international locations, as
20 the Oracle software product had some issues in terms
21 of its ability to process some of the company's
22 specific requirements in the US location it was
23 concerned that if it took the payroll application to
24 international locations it might have different or
25 less common than what is implemented in the US types

00345

1 of business processes that that software product may
2 not fit.

3 Their confidence level in the software
4 product and the ability to fit is lower than it would
5 -- than would like it to be.

REDACTED

6 Therefore, they have undertaken a strategy
7 to understand whether it made better sense to
8 outsource its payroll applications on a more global
9 basis to ADP, which is the study that they were
10 undertaking.

11 Q Are you aware of any Deloitte clients, this
12 is obviously you, personally, who have decided to
13 outsource their -- their HR function to a business
14 process outsourcing?

15 A I'm not aware of that, Chris. I think that
16 there have been discussions, but I can't site an
17 example.

18 Q Are you aware that there are business
19 process outsourcers who have their own software or
20 applications and will run your -- your HR processes
21 for you?

22 A There are service providers out there that
23 do that. I am familiar with seeing them at the
24 software shows that we do participate in.

25 Q Who are you familiar with who does that?

00346

1 A I think of Cognos is one that's out there.

2 There is -- I would have to look it up at the break --

3 there's a firm that specializes in Oracle HR

4 outsourcing and implementations, they do both.

5 So, I'm familiar with them. They've

6 approached us on a number of occasions to try to

7 partner with us.

8 Those are the ones that I'm primarily --

9 ADP, as I've mentioned earlier. Ceridian is another

10 one that I'm familiar with.

11 Q Are you familiar with fidelities APO HR

12 offer?

13 A I am not.

14 Q How about IBM, do you know if IBM has

15 entered the APO HR outsourcing business?

16 A I know that IBM has an APO offering. I'm

17 not familiar with how extensive it is, so I can't

18 answer if it is capable of outsourcing. But I know

19 that they have invested significantly and done some

20 acquisitions around business process outsourcing. And

21 they see it as a fundamental part of its strategy

22 going forward.

23 MR. BROWN: I object to the last portion

24 about the witness' testimony about IBM's strategy

25 going forward.

00347

1 BY MR. YATES:

2 Q You testified --

3 MR. BROWN: No foundation.

4 BY MR. YATES:

5 Q You believe that the fundamental portion of

6 IBM's strategy going forward is outsourcing; what's

7 the basis for that?

8 A We have an alliance with IBM and we have a

9 very senior partner that's associated with that

10 alliance, his name is Robert Dalton. And in partner

11 meetings we have discussed the fact that we talk about

12 IBM and the competitive nature of IBM and where it can

13 impact our business.

14 So we are aware of emerging trends of our

15 competitors, and that was the basis of my answer.

16 Q IBM as a consulting business, the former

17 PriceWaterHouse consulting business?

18 A Together with IBM Global Services, yes.

19 Q And IBM also has a software business?

20 A They have a software implementation

21 practice.

22 Q Are you aware of IBM, and I'm talking about

23 IBM Corporate, are you aware that it has a database

24 business?

25 A Yes.

00348

1 Q Is it fair to say that Deloitte Consulting
2 both partners with IBM and competes with IBM in
3 certain circumstances?

4 A That is true.

5 Q And I believe you testified on May 5th, in
6 response to some of Mr. Brown's questions, that
7 was also considering some sort of best breed
8 strategy?

9 A Yes, I did say that.

10 Q And what was the strategy they were
11 considering?

12 A The strategy was to evaluate whether or not
13 it made sense to have a single vendor provide all its
14 application software -- excuse me -- or it should have
15 a multiple vendor approach and the different
16 components of what they were looking at from a multi
17 vendor perspective or human resource.

18 Whereas procurement was manufacturing and
19 the financial applications. So, they had decoupled
20 their decision to evaluate a best of breed versus an
21 integrated strategy on those four bases, and in trying
22 to evaluate different vendors in the marketplace at
23 that time who could supply those solutions in trying
24 to determine on a cost or business benefit basis if
25 one was advantageous versus the other, and that was

REDACTED

00349

1 the scope of that study.

2 Q If we can switch gears a little bit, are

3 you aware that Deloitte has been engaged by the State

4 of North Carolina to evaluate its current business

5 systems and its strategy going forward?

6 A I have awareness that we're involved with

7 the State of North Carolina.

8 MR. YATES: I would like to mark as, I

9 believe, Exhibit 1433, a document entitled State of

10 North Carolina Business Systems Infrastructure Study

11 Phase Two, bearing the Deloitte logo, dated January 5,

12 2004.

17 (Oracle Deposition Exhibit No. 1433 was

18 marked for identification and was attached to the

19 transcript.)

20 BY MR. YATES:

21 Q Mr. Dortenzo, Exhibit 1433 has been placed

22 in front of you, if you could just take a moment to

23 examine it, please?

24 Have you had a chance to review Exhibit

25 1433?

00350

1 A Sure. Yes.

2 Q And Exhibit 1433 was prepared for the State
3 of North Carolina, by Deloitte; correct?

4 A That is correct.

5 Q And it was prepared as part of an
6 engagement for the State of North Carolina to evaluate
7 the state's current business infrastructure to suggest
8 different approaches going forward?

9 A That's right.

10 Q And Exhibit 1433 was prepared in the
11 ordinary course of business at Deloitte; right?

12 A Yes.

13 Q And it was provided to Deloitte's client,
14 the State of North Carolina?

15 A Yes.

16 Q And if you go to page two of Exhibit 1433,
17 it says, under background, that North Carolina state
18 government is a large, complex organization; do you
19 see that?

20 A Yes, I do.

21 Q Do you have any understanding of whether
22 the North Carolina state government is a large,
23 complex organization?

24 MR. BROWN: Objection, foundation.

25 MR. YATES: The question was do you have an

00351

1 understanding, but go ahead, you may answer.

2 A I don't have personal familiarity with the

3 state's organization and business processes, I don't.

4 I know what that generally means when we talk about it

5 in a document.

6 Q What does it generally mean when Deloitte

7 calls an organization a large, complex organization?

8 A It generally means that there is a large

9 number of entities involved in the organizational

10 structure, and that there are business processes that

11 are significant in number and that can be difficult to

12 manage for that particular organization in terms the

13 meeting its business process requirements or having

14 supporting processes or people around that, it's a

15 term that we typically use in that particular

16 scenario.

17 Q And if you turn to page three of Exhibit

18 1433, there's a heading, "background"; do you see

19 that?

20 A Yes, I do.

21 Q And does page three attempt to summarize

22 the scope of Deloitte's engagement for the State of

23 North Carolina?

24 A That is correct.

25 Q If you turn to page seven of Exhibit 1433?

00352

1 A Mm-hmm.

2 Q The -- the second -- there are two arrows;

3 do you see that?

4 A Yes.

5 Q The second arrow reads: To prepare the

6 business case Deloitte evaluated several approaches to

7 address the state's business needs. These

8 alternatives were the first bullet point ERP,

9 enterprise resource planning implementation; second

10 bullet point, outsourcing; third bullet point, stand

11 alone packages; fourth bullet point, custom

12 development; fifth bullet point, enhances to current

13 system; and sixth bullet point, best of breed; do you

14 see that?

15 A I do.

16 Q These were, to your understanding,

17 approaches considered by Deloitte to address the State

18 of North Carolina's business needs?

19 MR. BROWN: Objection, foundation.

20 BY MR. YATES:

21 Q You may answer.

22 A Yes, that is the case.

23 Q And do you have an understanding of what's

24 meant by stand alone packages, on page seven of

25 Exhibit 1433?

00353

1 MR. BROWN: Objection, no familiarity with
2 the document mentioned.

3 A Stand alone packages would reference point
4 solutions for single solutions that might satisfy a
5 particular business process or technology need.

6 Q And are stand alone packages a term used at
7 Deloitte?

8 A Yes, it is.

9 Q And custom development, is that a term
10 that's used at Deloitte?

11 A Yes, it is.

12 Q And do you have an understanding of what
13 custom development means?

14 A Yes.

15 MR. BROWN: Objection as to what the term
16 means in the document.

17 BY MR. YATES:

18 Q In general, what does it mean, sir?

19 A Custom development is the process of
20 creating software or code from scratch, based on a
21 company's business process requirements.

22 And it usually involves our staff building
23 technical specifications and then following through on
24 the development of programs to create software to
25 support businesses processes.

00354

1 And it is a significant portion of our
2 business in the public sector.

10 Q And enhancements to current system, is that
11 a phrase that you're familiar with from your work at
12 Deloitte?

13 A Yes, I am.

14 Q And what's your understanding of what that
15 means in general usage at Deloitte?

16 A That is taking a look at the current state
17 of technology in a company, understanding what its
18 capability is in terms of a business process or
19 function, and then suggesting that to expand the
20 functionality associated with a piece of software that
21 you could enhance or create a change to that
22 particular environment to deliver more functionality.

23 Q Have you personally advised clients on
24 making enhancements to current systems?

25 A I have.

00355

1 Q And can you give me some examples?

2 A One of the examples that we had in the
3 situation was that service technicians in the
4 field would want to understand precisely when a
5 service order came in from a customer.

REDACTED

6 The software didn't have the capability to
7 put a time stamp on the particular service order, so
8 in this particular case there was an enhancement
9 created to actually time stamp and date and time stamp
10 when that service order came in, and that was built
11 into the Oracle functionality.

12 Q Are you aware of any other enhancements
13 made to current systems that you are personally aware
14 of, personally involved in?

15 A I've been involved in different systems,
16 over the years, where a maintenance system, as an
17 example, we tried to identify different skills that
18 were required to accomplish work orders. We have done
19 enhancements around localizations, as I mentioned a
20 bit earlier in an explanation there, where we, within
21 South America, had to track different levies that were
22 taxed on top of different shipments depending on the
23 type of shipments that were -- there are a number of
24 enhancements that we do to systems, some can be around
25 strategic sourcing, some can be around financial

00356

1 reporting, based on different requirements some can be
2 around on taxing based on sales tax that are paid to
3 different companies and meet different requirements
4 the companies have in financial reporting.

5 Q Have you ever worked with clients on
6 enhancements to an ERP system as part of an effort to
7 extend the life of a system?

8 A We have, as a firm. I have not done that
9 personally, but most of my work centers in the
10 commercial environment, but I know we do have a
11 business in our public sector in state and local
12 government that almost exclusively focuses on that.

13 Q And best of breed, just to complete this
14 page, do you have an understanding of what that means,
15 generally, at Deloitte?

16 A Best of breed usually infers that there is
17 a combination of software products that would be
18 interfaced together to provide a total solution to a
19 client.

20 So, it infers a fewer number of software
21 vendors, two or three, usually the case, where their
22 enterprise solution would be provided based on those
23 vendor's offerings.

24 Q If you could turn to page 10 of Exhibit
25 1433?

00357

1 A Okay.

2 Q And this is a PowerPoint slide entitled
3 strategies by core business system, are we on the same
4 page?

5 A Yes.

6 Q And then there's a chart listing the
7 various systems, short-term actions and then future
8 actions; do you see that?

9 A I do.

10 Q Under PMIS, or human resources, a future
11 action reads: Install replacement package or
12 outsource non-management function; do you see that?

13 A I do.

14 Q Do you have an understanding of what's
15 meant by that, sir?

16 A Well, based on the company's business
17 processes, the replacement package would deal with the
18 functionality associated with the human resources
19 function.

20 If the company or the state, in this
21 particular case, did not see that as a feasible
22 strategy, then they were given an option that
23 suggested that they might find someone that could run
24 that particular function for them and perform the
25 associated business functions and processes, that

00358

1 would be the outsourcing option.

2 Q If you could turn to pages 14 and 15 of

3 Exhibit 1433, sir?

4 A Yes.

5 Q And this is a -- these pages are entitled

6 representative state replacement strategies; do you

7 see that?

8 A Correct, I do.

9 Q Does -- stepping away from Exhibit 1433 for

10 one moment -- does Deloitte attempt to identify for

11 clients similarly situated entities and -- and tell

12 the client how they may have addressed a business

13 issue?

14 A We do do that, yes.

15 Q Why do you do that?

16 A We do that to help a client evaluate

17 whether or not its strategy is something that's

18 commonly practiced within a particular industry, its

19 industry, or by its competitors, so that they might

20 feel more comfortable that they are pursuing an

21 appropriate strategy for their business.

22 Q So, for a state you might look at what

23 other states have done, as an example?

24 A That's correct.

25 Q And you might look at what they've done on

00359

1 the financial management side and the human resource
2 management side?

3 A That's correct.

4 Q And if we go back to Exhibit 1433, sir, let
5 me -- let me withdraw that -- generally, where is --
6 where does Deloitte go to attain information about
7 similarly situated states or companies in the
8 commercial sector?

9 A In the public sector it's, generally
10 speaking, easy to find as a matter of public record.

11 In the second instance, where we're talking
12 about commercial applications, sometimes we'll go to
13 our company intranet site and understand if we've done
14 a project for company "X" or company "Y", or a company
15 in a particular industry, we will go and research and
16 search on our previous accomplished results and look
17 for whether or not the report is on file, might
18 generate that information.

19 Sometimes we will actually approach the
20 software vendors and look for some of that detailed
21 knowledge.

22 And the other place that we might go is to
23 a third-party evaluator, like we mentioned earlier,
24 like Gartner or, too, Meta, or we have a number of
25 third-party evaluators that we talk to or trade

00360

1 information with, so those are probably the primary
2 sources.

3 Q And you say the data is typically easy to
4 find in the public sector?

5 A Yes.

6 Q Why is that?

7 A It's a matter of public record.

8 Q Going back to Exhibit 1433, there's a
9 listing in Exhibit 1433 of looks like 23 states, to
10 me, including the State of North Carolina; do you see
11 that?

12 A Yes.

13 Q And the third state listed is Illinois.
14 And under Illinois and under systems strategy
15 replacement it says installed AMS financial
16 application; do you see that?

17 A I do.

18 Q Do you have a familiarity with what the AMS
19 financial application is?

20 A AMS is a company that's located in
21 Virginia, it is, to my knowledge, more specialized
22 around public sector applications in finance and HR,
23 it is a competitor to our public sector practice. And
24 we have hired some other people from AMS, so I do
25 understand a little bit about their practices and a

00361

1 little bit about their business.

2 Q Do you have an understanding concerning
3 whether they sell any software products?

4 A My understanding is they do market their
5 own products.

6 Q Do you have an understanding concerning
7 whether the State of Illinois has installed an AMS
8 financial application?

9 A I do not.

10 Q Under the fourth state listed is Florida,
11 and they appear to be listed in terms of annual IT
12 budgets spent, that appears to be the rank order; do
13 you see that?

14 A Yes. Yes, I do.

15 Q And Florida is the fourth one, and under
16 system strategy replacement the first arrow says:
17 Outsourcing various functions, including human
18 resources and payroll; do you see that?

19 A I do.

20 Q Do you have an understanding of what's
21 meant by that, sir?

22 A I have an understanding of what is meant.
23 I don't have first-hand knowledge of the State of
24 Florida.

25 Q Have you heard of a company called

00362

1 Convergys?

2 A Yes.

3 Q Do you understand what they do?

4 A Convergys, my understanding, is they do
5 offer some applications. They also offer
6 implementation services and software development
7 services.

8 Q Do you have an understanding of whether
9 they offer any sort of HR business process
10 outsourcing?

11 A I do know that they offer HR business
12 processes.

13 Q Do you know whether or not the State of
14 Florida's outsourced its human resources and payroll
15 to Convergys?

16 A I don't know that.

17 Q The sixth state listed is the State of
18 Pennsylvania, the state that you're from?

19 A Yes.

20 Q And according to Exhibit 1433 the Deloitte
21 report for the State of North Carolina, Pennsylvania
22 is in the final stages of implementing SAP financials,
23 human resources and payroll; do you see that?

24 A Yes, I do.

25 Q Do you have an understanding of whether or

00363

1 not the State of Pennsylvania is implementing the SAP

2 products listed?

3 A I do. I do.

4 Q What's your understanding?

5 A They are implementing SAP.

6 Q Is Deloitte involved in that in any way?

7 A Deloitte is involved in that.

8 Q Is Deloitte participating in the

9 implementation?

10 A Yes.

11 Q Are you personally involved?

12 A No, I'm not.

13 Q The seventh state listed is the State of

14 Michigan, and the first arrow says installed RSTARS,

15 for financials; do you see that?

16 A I do.

17 Q Do you have an understanding of what RSTARS

18 is?

19 A No, I don't.

20 Q The second arrow says implemented loss of

21 human resources and payroll; do you see that?

22 A I do.

23 Q And is your understanding Lawson is the

24 Lawson Software Company that you've referred to over

25 today and the first day of your deposition?

00364

1 A That is my understanding.

2 MR. BROWN: Objection, no foundation as to

3 the testimony about what -- no foundation as to the

4 testimony about what this document means.

15 Q Let's -- let's talk a little bit further
16 about Lawson. We talked about Lawson during Mr.
17 Brown's examination on May 5th; right?

18 A Yes.

19 Q And Deloitte has an alliance with Lawson;
20 correct?

21 A We do.

22 MR. YATES: Let's mark as Exhibit 1434 a
23 document produced by Deloitte bearing Bates numbers
24 DS, many zeros, and two to three.

25 (Oracle Deposition Exhibit No. 1434 was

00366

1 marked for identification and was attached to the
2 transcript.)

13 BY MR. YATES:

14 Q Have you had a chance to review Exhibit
15 1434?

16 A Yes.

17 Q What is it, sir?

18 A It is a brief on a project that we
19 performed for the City of Dallas.

20 Q When you say a brief what do you mean by
21 that?

22 A A lot of times we will write white papers
23 and maintain them in our internal system as a
24 reference to a particular project to understand the
25 description of the project, solution that was

00367

1 implemented as a qualification that we might use in a
2 different proposal opportunity.

3 So, this is the kind of information that's
4 maintained to synopsise what the work was that was
5 performed on a particular client.

6 Q So -- so this could be -- the Exhibit 1434
7 could be the kind of material that Deloitte might turn
8 to if it was trying to work on a project for another
9 city and wanted to see what had been done in Dallas?

10 A That's correct.

11 Q And so you believe that in your -- withdraw
12 that -- in your experience do other documents, like
13 Exhibit 1434, prepared in the ordinary course of
14 business at Deloitte?

15 A Yes, they are.

16 Q And you believe that Exhibit 1434 was
17 prepared in the ordinary course of business?

18 A That would be my supposition.

19 Q And do you have an understanding of whether
20 the people who prepare the synopses that are going to
21 be posted on the Deloitte internal system make an
22 effort to be accurate when they prepare such
23 documents?

24 A Yes, they do.

25 Q And they make an effort to accurately

00368

1 reflect what was done on a project?

2 A Absolutely.

3 Q And that's because information is later
4 going to be relied on by other Deloitte personnel?

5 A It's our reputation, so we're very careful
6 about reviewing these types of documents at the
7 partner level before we do publish them.

8 Q And Exhibit 1434 describes an
9 implementation of Lawson HR software by Deloitte for
10 the City of Dallas; right?

11 A That is correct.

12 Q And according to Exhibit 1434 Dallas is the
13 eighth most populous US city and has over 12,000
14 employees and 3,000 retirees?

15 A That's right.

16 MR. BROWN: I object to -- to your -- no
17 foundation as to the witness' knowledge of Dallas.

18 BY MR. YATES:

19 Q Do you -- do you have any personal
20 knowledge of Deloitte's implementation of Lawson HR
21 for the City of Dallas?

22 A I'm aware that we had done the project.

23 Q You were not personally involved in that
24 implementation?

25 A No, I was not.

7 BY MR. YATES:

8 Q Do you have an understanding that Deloitte
9 did work for the City of Dallas involving Lawson
10 software?

11 A Yes.

12 Q And what's your understanding of that?

13 A I was aware that we had undertaken that
14 project. I'm friends with the software package lead
15 within our public sector industry practice, and I knew
16 that this was a transaction that had taken place.

17 Q Do you have a recollection of when Deloitte
18 did the implementation work for the City of Dallas?

19 A Not in detail, it was early 2000s.

20 MR. YATES: Marked as next in order,
21 Exhibit 1435, a document produced by Deloitte bearing
22 Bates numbers DS4 and 5.

23 (Oracle Deposition Exhibit No. 1435 was
24 marked for identification and was attached to the
25 transcript.)

00370

1 Q Exhibit 1435 has been placed in front of
2 you, Mr. Dortenzo, could you take a moment to review
3 it, please. What is Exhibit 1435?

4 A It is a project brief on the Montgomery
5 County school system.

6 Q And is this similar to Exhibit 1434 in
7 terms of being a document that could be posted on
8 Deloitte's internal reference --

9 A Yes, it is.

10 Q -- database?

11 A Yes, it is. Excuse me.

12 Q And your understanding is that Exhibit 1435
13 is prepared in the ordinary course of business by
14 Deloitte?

15 A Yes.

16 Q And it's your understanding that the people
17 who prepared Exhibit 1435 would make every effort to
18 be accurate in preparing it?

19 A Yes.

20 MR. BROWN: I object to questioning this
21 witness about this document. He hasn't -- there is no
22 testimony that he has even seen the document before.

23 BY MR. YATES:

24 Q And there's a reference on the second page
25 of Exhibit 1435 to Frank Garvey?

00371

1 A Yes.

2 Q And it's your understanding that Mr. Garvey

3 is the -- is the lead for the Lawson practice at

4 Deloitte?

5 A Yes, he is.

6 Q Do you have any personal knowledge of

7 Deloitte's implementation work for the Montgomery

8 County school system involving Lawson software?

9 A Just awareness.

10 Q What's your awareness?

11 A I knew that we had won this project, as

12 well.

13 Q Based upon your -- based upon your

14 relationship?

15 A My leadership role and the packages

16 practice in reviewing the larger transactions.

17 MR. YATES: Let's mark as next in order

18 Exhibit 1436, a document produced by Deloitte bearing

19 Bates numbers DS108 through 115.

20 (Oracle Deposition Exhibit No. 1436 was

21 marked for identification and was attached to the

22 transcript.)

23 MR. BROWN: What was this exhibit number?

24 MR. YATES: I think it was 1436.

25 MR. BROWN: 1436?

00372

1 MR. YATES: That's right.

2 MR. BROWN: Thank you.

3 BY MR. YATES:

4 Q Would you take a moment to review Exhibit

5 1436, Mr. Dortenzo?

6 A Sure.

7 Q Thank you. What is Exhibit 1436?

8 A It's an extract of our Lawson wins from our
9 target system.

10 Q And when you refer to the target system
11 what are you referring to?

12 A The target is our Siebel application that
13 we use internally to monitor our pursuits and the
14 status of those pursuits, win, lose or abandon.

15 Q And if you look at the top of Exhibit 1436,
16 the first page says DOJ Lawson wins plus extra fields;
17 do you see that?

18 A Yes.

19 Q Is it your understanding that Exhibit 1436
20 only contains the Lawson wins?

21 A Yes, that is my understanding.

22 Q And is it your understanding that Exhibit
23 1436 is a printout of information extracted from a
24 database?

25 A Yes.

00373

1 Q And is it your understanding that the
2 database from which the information found in Exhibit
3 1436 is information kept in the ordinary course of
4 business by Deloitte?

5 A Yes, it is.

6 Q Now, do you have an understanding of
7 whether Exhibit 1436 was provided to the Department of
8 Justice during its investigation?

9 A Yes, it was.

10 Q What's that -- what's that understanding
11 based on?

12 A It's my understanding that the Department
13 of Justice had requested information from the firm
14 with respect to the software package practices that we
15 do have, as particularly that it relates to this
16 exhibit around the wins for Lawson.

17 Q Let me -- my understanding is that Exhibit
18 1436 was produced only on May 5th, that's the second
19 -- the first day of your deposition?

20 A Mm-hmm.

21 Q Does that refresh your recollection
22 concerning whether or not Exhibit 1436 was provided to
23 the Department of Justice during its examination --
24 investigation -- excuse me.

25 A It was provided as a subsequent data

00374

1 request which would correspond to the timing that you
2 indicate.

3 Q Do you have an understanding of why the
4 information found within Exhibit 1436 was not
5 presented in Exhibit 103, which is the CD containing
6 the database produced to the Department of Justice?

7 MS. SABO: Yeah, counsel, can I have a
8 minute to -- to pull those -- pull those previous
9 databases?

10 MR. YATES: Certainly. Certainly.

11 MS. SABO: And refresh the witness'
12 recollection.

13 MR. YATES: Why don't we go off the record.

14 (Recess.)

15 MR. YATES: Let's go back on the record.

16 BY MR. YATES:

17 Q Before we took a break, Mr. Dortenzo we
18 were taking a look at Exhibit 1436?

19 A Right.

20 Q Do you have a refresh your recollection of
21 Exhibit 1436?

22 A I do.

23 Q What is that?

24 A Melanie and I stepped out, this information
25 was furnished based on a request from Oracle, from

00375

1 yourself, Oracle's counsel, to provide information
2 with respect to Lawson.

3 The description of the information I gave
4 earlier is still correct, it was from our target
5 system, it does represent our Lawson, it was made in
6 reference to your request.

7 Q Do you have an understanding of why it was
8 not provided, the information found in Exhibit 1436
9 was not provided to the Department of Justice during
10 the investigation?

11 A I do.

12 Q What's your understanding?

13 A When we provided the information originally
14 we responded with respect to Deloitte Consulting's
15 operations. Deloitte Consulting had more or less --
16 more -- had separated, I'm sorry, strike that --
17 Deloitte Consulting had separated the loss in practice
18 from our Deloitte Consulting operations, had separated
19 from our Deloitte Consulting operations the loss in
20 practice into Deloitte and Touche's Solutions
21 Consulting practice. And, therefore, the Lawson
22 practice was a separate operation, at the time.

23 We responded to the request for information
24 to supply the Lawson information on May 5th. I think
25 we provided that to you.

00376

1 Q And you testified a little bit last time
2 about the Lawson practice being with the Deloitte and
3 Touche entity?

4 A Yes.

5 Q And can you refresh my recollection of
6 concerning when the Lawson practice was -- is brought
7 or merged back into Deloitte Consulting?

8 A Sure. The consulting organization has been
9 reorganized and the Lawson practice brought back into
10 the consulting, Deloitte Consulting operations, as of
11 the January -- actually it was December 28th, 2003.

12 Q And so is it fair to say that the target
13 database, which is the database form, the basis for
14 Exhibit 103, that spreadsheet marked during Mr.
15 Brown's examination, that if you queried that database
16 today it would also be information found on Exhibit
17 1436?

18 A That is correct, the reorganization of the
19 first of the year, essentially.

20 Q And, just so we're clear now that your
21 recollection has been refreshed, Exhibit 1436 is a --
22 is a spreadsheet containing data extracted from the
23 target database?

24 A That's right.

25 Q And the target database is a CRM database

00377

1 maintained by Deloitte?

2 A Yes.

3 Q And it's maintained in the ordinary course

4 of business?

5 A Yes, it is.

6 Q And turning to Exhibit 1436, the listing of

7 Lawson wins, first, let's -- let's take a look at

8 there's a WLA system date; do you see that?

9 A Yes.

10 Q And then there's some -- some stars, and if

11 you go down to the bottom it says: W/L/A date may not

12 reflect actual win date because data was migrated from

13 one database to another in 2003?

14 A Yes.

15 Q Any entries in the previous database that

16 did not indicate the win date were given a default win

17 date of 10/31/03; do you see that?

18 A Yes, I do.

19 Q Mr. Dortenzo, I've taken a look through the

20 entries in Exhibit 1436, and they're about four

21 printed pages of Lawson wins. And many of these wins

22 appear to have opportunities start or end dates in

23 2004; do you see that? For example, if you turn to

24 page Bates number 112, 113?

25 A I do see those, yes.

1 Q When I went through Exhibit 1436 I did not
2 see any -- any Lawson wins listed from 2001 or 2002;
3 do you see any?

4 A There's one in there, at least, from 2001.

5 Q Where is that, sir?

6 A It's like the fourth page. It's the fourth
7 page.

8 Q Do you have a Bates number?

9 A Yes, 111, and 115, those two pages that
10 correspond to each other.

11 Q I see.

12 A So it looks like fifth, third back, I
13 believe, if I have those lined up correctly.

14 Q Do you have any knowledge of any -- any
15 Lawson wins between May 31st, 2001, and October 31 of
16 2003, that are not reflected within Exhibit 1436?

17 A No, I don't.

18 Q Do you have any knowledge one way or the
19 other?

20 A No, I don't. I could only assume that
21 there are wins because I know that the Deloitte and
22 Touche firm's practicing at the time, that's all I can
23 tell you.

24 Q For example, if you look back at Exhibit
25 1434, which is the -- the brochure, the Deloitte

00379

1 brochure concerning the implementation of Lawson with
2 Dallas that infers to implementation in approximately
3 July of 2002?

4 A Yes.

5 Q Yet there's no information for the City of
6 Dallas in Exhibit 1436; correct?

7 A That's right.

8 Q Do you have any knowledge why, for example,
9 the information -- the information concerning the City
10 of Dallas is not found within Exhibit 1436?

11 A It might be that the Deloitte and Touche
12 organization -- I know they did have a separate
13 mechanism for tracking. I thought they had one for
14 tracking their sales processes that may not have been
15 Siebel, S-i-e-b-e-l.

16 Q So, it's your understanding that the
17 Deloitte and Touche had some sort of different
18 database for tracking the sales opportunities?

19 A I know they did not use Siebel. I'm not
20 sure what they did use.

21 Q Did you have an understanding concerning
22 whether all of the information found in the database,
23 the Deloitte and Touche database that you're referring
24 to, was migrated into the target database?

25 A I don't know that it was migrated in or

15 Q Do you have any knowledge of Deloitte's

16 work for ?

REDACTED

17 A No, I do not.

18 Q Are you aware of any of Deloitte's work for

19 ?

REDACTED

20 A No, I'm not.

21 Q How about , another entity

REDACTED

22 listed on the first page of Exhibit 1436, do you have

23 any knowledge of Lawson's work for that entity?

24 A No, I don't.

25 Q I may have misspoke, Deloitte's work for

00381

1 that entity?

2 A I'm not aware of , in my firm

REDACTED

3 experience.

4 Q If you turn to the second page of Exhibit

5 1436, Bates number DS109?

6 A Yes.

7 Q There's a reference to some Deloitte

8 projects for , Inc.; do you see that?

REDACTED

9 A Yes, I do.

10 Q You mentioned during your testimony on

REDACTED

11 May 5th; correct?

12 A Yes.

13 Q You're aware of some Deloitte -- Deloitte

14 work for -- for involving Lawson's software?

REDACTED

15 A Yes, I was.

16 Q What is ?

REDACTED

17 A is a health care conglomerate, I think

REDACTED

18 it stands for .

REDACTED

19 Q Do you have an understanding of

REDACTED

20 revenues or its numbers of employees?

21 A No, I don't.

22 Q Do you have an understanding of its needs

23 for complex software?

24 A I know that we were involved in a multi

25 year rollout of software that would have been a multi

00382

1 million dollar project for the firm, that's my basic
2 understanding.

6 Q How about any work by Deloitte involving
7 Lawson software for the , do you have any
8 awareness of that?

REDACTED

9 A I'm aware that we did do a project for the
10 with Lawson.

REDACTED

11 Q What's your awareness, sir?

12 A Just that it was a large system
13 implementation that our Lawson practice was involved
14 in, that is that it was a rather significant
15 implementation for the Lawson practice in terms of its
16 importance and size.

17 Q In going back to Exhibit 103, which is the
18 spreadsheet that was produced in response to some of
19 the Department of Justice's inquiries?

20 A Mm-hmm.

21 Q Deloitte Consulting produced a spreadsheet
22 to the Department of Justice during the investigation
23 process; is that correct?

24 A Yes, it did.

25 Q And then there was a spreadsheet that was

00383

1 produced in this litigation with client names added in

2 once the litigation commenced?

3 A That's right.

9 Q Mr. Dortenzo, I'm now displaying on a

10 screen, in a similar fashion that Mr. Brown did on May

11 5th, a portion of Exhibit 103, which is the

12 spreadsheet produced by Deloitte in this litigation;

13 do you see that.

14 A Yes, I do.

15 Q And Mr. Brown went through all of the

16 columns and discussed them with you, and I'm not going

17 to go through all of them. I want to take a look at

18 the one entitled opportunity solutions; do you see

19 that?

20 A Yes.

21 Q And there appears to be a note on that

22 column which says: Note, ERP solution is the default,

23 meaning that the specific product function is not

24 mentioned or that the work was not tied to a specific

25 product function. The data included is a combination

00384

1 of what was entered into the database and information
2 gleaned directly from the opportunity name or
3 description fields; do you see that?

4 A Yes, I do.

5 Q And at the bottom of the projected image it
6 says sell WiFi, which is the cell we were just reading
7 from, commented by Megan McNamara; do you see that?

8 A Yes.

9 Q Who is Megan McNamara?

10 A Megan McNamara is the chief of staff in the
11 enterprise applications process.

12 Q She works with you?

13 A Yes, she does.

14 Q And do you have an understanding of what's
15 meant by the comment when it says the data included is
16 a combination of what was entered into the database
17 and information gleaned directly from the opportunity
18 name or description fields?

19 A Yes.

20 Q What's your understanding?

21 A If there was an empty cell that empty cell
22 was analyzed in terms of the project description to
23 try to make an informed decision about the type of
24 service that was rendered or the solution that was
25 titled in the column.

00385

1 Q Is it fair to say that not all of the
2 information found within the opportunity solutions
3 column within the US work region tab within Exhibit
4 103 is information derived from Deloitte's CRM
5 database?

6 A Let me make sure, to restate it.

7 Q Sure.

8 A Is it fair that it is derived?

9 Q Is it fair that some of it is not.

10 A Some of it is not derived. Some of it
11 would not be derived.

12 Q Some of it as to quote the --

13 A Right.

14 Q -- the comment to in column Y, was, quote,
15 gleaned from the opportunity name or description
16 fields?

17 A Right, that's correct.

18 Q And does that mean that someone from
19 Deloitte went through and tried to determine if they
20 could figure out what the opportunity solution was?

21 A That was the case.

9 Q And do you have an understanding of whether
10 fiscal year and calendar year are columns or fields
11 that appear in the Deloitte target database?

12 A They do appear in the database.

13 MR. YATES: I would like to mark as next in
14 order Exhibit 1437, a copy of a letter from Mr. Weiss,
15 of Preston Gates, to Kent Brown, at the Department of
16 Justice, dated October 17, 2003.

17 (Oracle Deposition Exhibit No. 1437 was
18 marked for identification and was attached to the
19 transcript.)

20 BY MR. YATES:

21 Q If you can take a moment to review what's
22 been marked as Exhibit 1437; have you had a chance to
23 review Exhibit 1437?

24 A Yes.

25 Q The second page of Exhibit 1437, Bates

00387

1 number DOJ-DC-CORR-000005, do you have that?

2 A Yes, I do.

3 Q And this is the letter from Mr. Weiss to

4 Mister -- of Preston Gates, to Mr. Brown, at the

5 Department of Justice, it says: The suspected package

6 title is suspected and not certain because the person

7 entering the data did not always enter this field.

8 Accordingly, column A was created from the other data

9 that was available in the report; do you see that?

10 A Yes.

20 Q Turning to Exhibit 103, which is the
21 database that was provided to the Department of
22 Justice, suspected package, that's column A; do you
23 see that, sir?

24 A Yes, I do.

25 Q Was all of the information found within

00389

1 column A, the suspected package column, found or
2 contained within Deloitte's target database?

3 A Was in the database or derived through what
4 -- what the -- for what it states in the letter.

5 Q Well, let's -- do you -- do you have a --
6 is it -- is it fair to say that each and every entry
7 within the suspected package column was not found
8 within the Deloitte target database?

9 A Yes.

10 Q And some of the information was populated
11 -- was added to the -- to column A, by Deloitte, in
12 response to the Department of Justice requests?

13 A That's correct.

14 Q I'm now going to move down Exhibit 103 to I
15 believe it's row 269, if you bear with me. Yes, under
16 row 269 the suspected package is listed as Oracle;
17 correct?

18 A Yes.

19 Q And the client is , Inc.?

REDACTED

20 A Yes.

21 Q And if you go down, under opportunity, it
22 says package selection for replacement HRMS; correct?

23 A Yes.

24 Q And do you have an understanding of what
25 that means in -- in Deloitte's usage of those terms?

00390

1 A Human resource management system.

2 Q So, it's your understanding this is an

3 effort to help choose a human REDACTED

4 resource management system, this opportunity?

5 A Yes, that is what is inferred.

6 Q And under description it says -- actually,

7 if you can read the description into the record,

8 please?

9 A Sure. is seeking a REDACTED

10 partner to assist in the selection of a replacement

11 HRMS. has chosen to consider JD Edwards, REDACTED

12 Lawson, Oracle, and PeopleSoft packages. They will

13 also be looking for an integration partner for HRMS

14 and financials.

15 Q Thank you. Do you have an understanding of

16 why Oracle is listed as the suspected package in row

17 269, the row for , Inc.? REDACTED

18 A Listing might have to do with the data

19 entry person's perspective on the kind of opportunity

20 it might be. So they may have had a perspective that

21 Oracle could have been the leading software product in

22 this field of vendors.

23 Q From the information found within Exhibit

24 103, and particular in row 269, the row for , REDACTED

25 it's fair to say that , Inc., REDACTED

00391

1 considered Lawson software?

2 A Yes.

3 Q Is it a fair conclusion, then, that where

4 SAP or Oracle or PeopleSoft is listed as the suspected

5 package in Exhibit 103 the client may have considered

6 Lawson or another vendor, too?

7 A That could be the case.

8 Q There simply isn't a way to tell from the

9 information presented in Exhibit 103, unless all the

10 potential vendors are listed, as is the case with

11 ; is that correct?

REDACTED

12 A That is correct.

16 Q There isn't a way to tell unless potential

17 vendors are listed within Exhibit 103 and, in

18 particular, the description or opportunity fields;

19 correct?

20 A That's correct.

21 MR. YATES: I would like to mark as next in

22 order Exhibit 1438, a document produced by Deloitte

23 Consulting bearing Bates number DEL 005403, through

24 DEL 005482.

25 (Oracle Deposition Exhibit No. 1438 was

00392

1 marked for identification and was attached to the
2 transcript.)

13 Q Before we talk about Exhibit 1438 I would
14 like to ask you another question or two about Exhibit
15 103, this spreadsheet that's being displayed?

16 A Okay.

17 Q It's true, is it not, that not all the
18 information that's found within Exhibit 103 comes from
19 Deloitte's CRM target database?

20 A Correct.

21 Q And some of the information within Exhibit
22 103 was added at the request of the Department of
23 Justice?

24 A Yes, it was.

25 Q Now, turning to Exhibit 1438, this document

00393

1 reads: ERP Vendor Comparison, Oracle 11i, Lawson

2 eight, PeopleSoft eight; do you see that?

3 A Yes, I do.

4 Q Do you have an understanding of what Oracle

5 11i is?

6 A Yes, it's a recent version of Oracle's

7 application software.

8 Q And how about Lawson eight?

9 A Same thing.

10 Q And PeopleSoft, same thing?

11 A Same thing.

12 Q And if you turn to page DEL 00405, the

13 third page in, in Exhibit 1438?

14 A Yes.

15 Q It refers to company XYZ; do you see that?

16 A Yes, I do.

17 Q Why was the company name removed from

18 Exhibit 1438?

19 A This document was pulled from our intranet,

20 and when we published sample documents on the intranet

21 that's our policy, to eliminate company names.

22 Q Why are -- why are documents such as 1438

23 published to Deloitte's intranet?

24 A They're published as examples or

25 representative documents for the staff and partners of

00394

1 the firm to look at to understand best practices or
2 comparative analytical practices or tasks that may
3 have occurred or the deliverables that may have
4 occurred in any of our projects.

5 Q And do you believe Exhibit 1438 was
6 prepared in the ordinary course of business at
7 Deloitte?

8 A Yes, I do.

9 MR. BROWN: I object to questions about the
10 document. We do not know who the document is about.

11 MR. YATES: Well, let's see if we can
12 figure that out.

13 BY MR. YATES:

14 Q Do you have an understanding concerning
15 which client Exhibit 1438 concerns?

16 A Do I? Yes, I do.

17 Q Yes, what client?

18 A . REDACTED

19 Q And what is the , if you know? REDACTED

20 A , I thought the nature of REDACTED

21 their business was financial services in the insurance
22 business. Let me -- let me retract that.

23 Q Sure.

24 A I believe the was -- I should REDACTED

25 double check -- I believe the was a -- REDACTED

00395

1 part of the break-up of the Blue Cross and Blue Shield
2 system.

3 Q That's my understanding.

4 A Yeah, so that was my reference, early
5 reference to insurance, thinking of them as insurance
6 providers.

7 Q Are you -- are you familiar with a document
8 prepared by Deloitte called a scorecard?

9 A There's not a -- there are balance
10 scorecards, which have to do with financial
11 performance of a company. I don't think that's the
12 inference. There could be scorecards that might be
13 associated with vendor selection activities. And I've
14 heard that term used in reference to either.

15 Q What are scorecards in connection with
16 vendor selection activities?

17 A Scorecard would relate to the ability of a
18 vendor to provide a solution pursuant to the fit-gap
19 analysis discussion that we had earlier.

20 So a scorecard would be a visual means of
21 analyzing that fit-gap and providing a quantitative
22 scoring mechanism against that fit-gap to help a
23 client try to understand the degree of fit or the
24 closeness of fit by particular business function or on
25 an aggregate basis.

00396

1 MR. YATES: Let's mark as next in order
2 Exhibit 1439, a document produced by Deloitte
3 Consulting. The second two pages have Bates numbers
4 DEL 005110 to 5111.

5 (Oracle Deposition Exhibit No. 1439 was
6 marked for identification and was attached to the
7 transcript.)

8 THE WITNESS: Excuse me.

9 BY MR. YATES:

10 Q Have you had a moment to review Exhibit
11 1439.

12 A Yes.

13 Q What is Exhibit 1439, sir?

14 A It is entitled final scorecard from the

15 . REDACTED

16 Q Do you -- do you believe Exhibit 1439 was
17 prepared in the ordinary course of business, by

18 Deloitte, for the ? REDACTED

19 A Yes, I do.

20 Q And according to Exhibit 1439 Lawson's
21 overall score was 57.71; correct?

22 A Yes.

23 Q And PeopleSoft's was just a little bit
24 higher, 58.66?

25 A Yes.

00397

1 Q Oracle was 50.44?

2 A Correct.

3 Q And it's your understanding that that would

4 indicate Deloitte's evaluation of those three pieces

5 of software for the ?

REDACTED

6 A Yes, it does.

16 Q And when you're talking about the costs
17 involved are you talking about just the software
18 license fees, or are you talking about integration
19 fees, what are you talking about?

20 A It could be both. It might be the case
21 where a client is trying to make a decision based on
22 just the price of the software, plus the maintenance,
23 or they may be trying to make a decision based on the
24 bundled price associated with the software plus the
25 implementation cost. And the third factor could be

00403

1 over a period of time.

2 Sometimes clients consider the horizon over
3 the period of usefulness that a software package might
4 have, or a software solution might have, and they may
5 try to analyze that cost over time. So they're
6 usually the pieces of the decision process.

7 MR. YATES: Let's go off the record for one
8 moment.

9 (Discussion held off the record.)

10 MR. YATES: Let's go back on the record.

11 BY MR. YATES:

12 Q Turning back to Exhibit 103, which is the
13 spreadsheet that's being displayed on -- on the
14 screen, Mr. Dortenzo, if you sort the suspected
15 package column in the US work region portion of
16 Exhibit 103 for SAP you come up with 723 out of the
17 1109 records found involve SAP; do you see that?

18 A Yes, I do.

19 Q Do you know why SAP is -- is listed most
20 often within the US work region spreadsheet within
21 Exhibit 103?

22 A I would say that it's proportionate to the
23 number of both pursuits and projects that we deliver
24 with respect to our SAP practice and business versus
25 the other vendors.

00404

1 Q Is it your understanding that SAP has a --
2 has a large market share than most verticals?

3 A Yes.

4 Q Is your understanding that SAP competes
5 vigorously with Oracle for new business?

6 A Yes, it does.

8 MR. BROWN: I -- I object on the grounds
9 that there's not a specific indication of a -- of
10 customers or verticals.

12 Q Is it your understanding that SAP is moving
13 towards more open software interfaces?

14 A Yes, it is.

15 Q Do you have an understanding of why it's
16 doing that?

17 A There was concern within SAP that customers
18 would not evaluate its solution for subsets of the
19 different applications that a company might consider
20 in its ERP solution.

21 So, they did the uncoupling to try to
22 increase their competitive -- competitive chance of
23 garnering a larger portion of the market.

11 Q So, in the case of , when REDACTED
12 there were -- there were 22 items listed for REDACTED
13 in the US summary portion of the Exhibit 103, REDACTED
14 it's fair to say that at least on the portion of the
15 screen that's being depicted about seven or eight of
16 those are simply extensions of previous work?
17 A Yes. And in the case of we REDACTED

18 had signed a master services agreement at the front
19 end of that relationship, and statements of work would
20 represent different pieces of their operations. And
21 as we worked within different pieces of their
22 operations then we would have in the normal course of
23 business extended some of those projects or created
24 follow on activities which are represented by the line
25 items.

00408

1 Q So, it's fair to say that there weren't
2 necessarily 22 separate projects, but -- but, rather,
3 a few projects and then a variety of extensions and --
4 of the scope of work?

5 A That's -- that's fair, it could be -- it
6 could either be new projects or it could be the
7 extension of a particular project to move into a next
8 business process or functional area, so both
9 explanations would apply.

10 Q Let's go back to the US summary tab within

11 Exhibit 103. I would like to take you down to

REDACTED

12 ; do you see that?

REDACTED

13 A Yes, I do.

14 Q That's a column A, and then column F it

15 says there are 60 instances for ; do you

REDACTED

16 see that?

17 A Yes, I do.

18 Q Do you have an understanding of what

REDACTED

19 is?

REDACTED

20 A My knowledge would indicate that's our

21 relationship with . And they would be

REDACTED

22 opportunities where we have been in pursuits for .

REDACTED

23 Q Do you have any understanding of what

24 services have been provided to by

REDACTED

25 Deloitte?

00409

1 A I have a general understanding. I don't
2 have detailed knowledge of all the services.

3 Q What's your general understanding?

4 A I know we've been in consulting

5 relationships and hired by to deliver REDACTED

6 consulting services. Some of the services have been

7 technology oriented, some of those have been business

8 oriented, and that we do consider as REDACTED

9 one of our strategic relationships within the firm.

10 Q Let's go back to the US work region tab in

11 Exhibit 103 and sort for services under client. REDACTED

12 And we have row -- I'm going to ask you some questions

13 about row 502?

14 A Mm-hmm.

15 Q Would you read the description of the

16 project in row 502 into the record, please?

17 A It says merger- legal review, EXT dot, REDACTED

18 that means extension.

19 Q Do you have an understanding of what

20 services Deloitte was providing to services based REDACTED

21 upon that entry?

22 A This would likely be our merger and

23 acquisition group providing some service around

24 potential merger that they had going on at the time.

25 Q When you say your merger and acquisition

00410

1 group what do you mean?

2 A There is a piece of our consulting business
3 that focuses on merger and acquisition. They possess
4 skills that are related to merger transactions or
5 acquisition transactions where we advise our clients
6 -- we advise our clients on technical, on business, on
7 transactional issues that might exist around the
8 particular movements of business.

15 Q Do you have an understanding of whether the
16 work that's being described in -- in row 502 for

17 Services is an ERP solution?

REDACTED

18 A I'm not led to believe by that description
19 that it is an ERP solution. However, in our merger
20 and acquisitions activity we will oftentimes get
21 involved in advising a client on their applications
22 architecture and potential thinking around the use of
23 ERP in a particular business.

24 Q Do you have in the suspected packages
25 listed as SAP --

00411

1 A Mm-hmm.

2 Q -- do you have an understanding of whether

3 uses any SAP software?

REDACTED

4 A does use SAP.

REDACTED

5 Q Do you have an understanding of whether the

6 merger legal review that's described within row 502

7 was related in any way to SAP ERP software?

REDACTED

8 A I can't tell for sure. I don't know that.

9 Q Is it -- is it fair to say that not all of

10 the entries in the US work region portion of Exhibit

11 103 are software selection or implementation projects?

12 A That is a fair statement.

13 Q There are also -- there are entries within

14 -- within Exhibit 103, in particular the US work

15 region spreadsheet, for CRM projects; correct? Hang

16 on, I can show you one.

17 A Yeah, that would likely be the case. The

18 CRM is part of our enterprise applications practice.

19 Q So, it's your understanding that Exhibit

20 103, in particular the US work region spreadsheet,

21 would have projects related to CRM?

22 A Yes, it would.

23 Q And also supply chain management, SCM?

24 A Yes.

2 Q So, it's fair to say that Exhibit 103, in
3 particular the US work region spreadsheet, contains
4 information about projects beyond core financial and
5 core HR projects?

6 A That's correct.

7 Q We -- when -- when Mr. Brown was asking you
8 some questions, on May 5th, he provided some testimony
9 about Microsoft Software product called Great Plains;
10 do you recall that?

11 A Yes, I do.

12 Q Do you have more familiarity with a more
13 recent Microsoft Software product called Axapta?

14 A I do not.

15 Q You do not?

16 A I've heard of it. I don't have personal
17 familiarity with it.

5 Q When -- when did you first become aware of
6 PeopleSoft in your practice?

7 A My introduction to PeopleSoft was probably
8 around 1996.

9 Q And do you have a recollection of what
10 PeopleSoft's product offerings were, at the time?

11 A Primarily, human resource systems. They
12 had an emerging product around financial systems, at
13 that time.

14 The other emerging area that they were
15 talking about or developmental area was around
16 manufacturing, which is how I got first introduced to
17 the company.

18 Q And when you say an emerging product what
19 do you mean?

20 A They had a product that was in their
21 software development lab, and they were trying to
22 develop business applications that could be used in
23 companies whose primary business was manufacturing.

24 The applications would deal with what we've
25 been talking about in the last two discussions, more

00414

1 of about supply chain management.

2 So, everything that had to do with

3 inventory management, everything that had to do with

4 manufacturing, planning and control, MRP, and those

5 types of applications, was the product suite that

6 PeopleSoft was investing in and trying to bring to

7 market. And that's how I got introduced to them the

8 first time.

9 Q And do you know if PeopleSoft was

10 successful in bringing that emerging product to

11 market?

12 A They were not successful in bringing that

13 to market.

14 Q What about you also mentioned that

15 PeopleSoft had an emerging from a financial product,

16 at the time?

17 A Yes. Yes.

18 Q Was PeopleSoft successful in bringing that

19 product to market?

20 A Yes, they have been successful in doing

21 that.

22 Q Do you have an understanding of how

23 PeopleSoft was able to break into the financial

24 management product in the mid to late 1990s?

25 A My understanding was with the specialty in

00415

1 HR they found themselves in a lot of back office
2 strategist discussions. The financial strategy within
3 the company did not lack the human resources strategy,
4 by far, at all, or by in terms of -- by terms of
5 investment.

6 So, they had a -- they had a good client
7 base in which they could cross sell both those
8 applications. So they became involved in a financial
9 implementation -- excuse me -- they could bring in the
10 HR applications. If they became involved in HR they
11 could bring in the financials. And it was easy to do
12 that because they were working usually with the same
13 executive group responsible for a lot of back office
14 operations.

5 Q And I just want to -- just to -- just to
6 make sure I understand, in your Lawson practice at --
7 at Deloitte Consulting, today, you have approximately
8 71 professionals; is that correct?

9 A That's right.

10 Q And the entire size of the practice is REDACTED
11 million dollars in revenue?

12 A That's a fair estimate.

13 Q Does that sound right?

14 A Yes.

15 Q And that compares with the Oracle practice,
16 in which you have 300 individuals who are solely
17 dedicated to Oracle, just in the United States; is
18 that correct?

19 A That's right.

20 Q And -- and you have another 1200 that are
21 -- that are partially dedicated to Oracle in the
22 United States, and the rest of the word; is that
23 correct?

24 MR. YATES: Objection, mischaracterizes the
25 witness' previous testimony, and argumentative.

00419

1 BY MR. BROWN:

2 Q Is that correct, what I said?

3 A I believe that is the number that we talked
4 about?

5 Q And I believe that of your total 1500
6 individuals who are solely dedicated or partially
7 dedicated to the Oracle practice about 20 percent of
8 those were outside the United States; is that right?

9 A That's right.

10 Q Okay. And the size of your -- your Oracle
11 practice in -- in just the United States, alone, is

12 million dollars in revenue a year; is that right?

REDACTED

13 A It's nearing that number, yes.

2 Q Okay. And I would just like to -- you to
3 refer for a moment to a document, 1433, which was
4 shown to you by defense counsel?

5 A Yes.

6 Q This is the -- the document that Deloitte
7 prepared for the State of North Carolina?

8 A That's right.

16 Q Does the document discuss -- does the
17 document show whether there is -- whether -- whether
18 it would be cost effective to use one or another of
19 any of those alternatives?

20 MR. YATES: Objection, vague as to cost
21 effective, and lacks foundation.

22 A There are references on page eight to
23 orders of magnitude of cost that are listed in the
24 comments column. So some reference has been made to
25 cost, but nothing that's specific, at least in my

00424

1 estimation.

2 Q Okay. So, is there -- can you tell from
3 this document which -- which alternative is the least
4 costly?

5 A Not with certainty.

6 Q Can you -- can you tell from this document
7 which alternative will lead to the greatest financial
8 benefits after implementation?

9 MR. YATES: Objection, vague as to
10 financial benefits.

11 A There is a comment underneath the single
12 ERP solution that suggests that there are the most
13 benefits provided by the single ERP solution option
14 three.

15 Q Yes. Now, can you tell whether from that
16 comment that that's the solution that Deloitte would
17 recommend if -- if asked for its recommendation?

18 MR. YATES: Objection, lacks foundation.

19 A You can not assume that.

20 Q Can -- can you tell from anything in this
21 document what -- what would be the -- a viable
22 alternative for the state in this case in -- in -- in
23 this instance for the State of North Carolina?

00425

1 A I believe that all three are viable and the
2 firm's position is that all three are viable, it
3 really depends on the constraints that the state would
4 have.

5 Q And what are the constraints?

6 A The scope, scope of management and control,
7 what exactly they're going to implement, timing being
8 the schedule, the resources that it can bring in terms
9 of state's capability to get things done over the
10 resources they might be able to bring from a financial
11 perspective.

12 Q So, can you tell whether if the cost of one
13 alternative were to go up, even by ten percent, it
14 would make another alternative preferable?

17 A I don't believe you could infer that from
18 the document, Kent.

19 Q Okay. I would like to show you what I have
20 -- well, I just want to -- now, in your Oracle
21 practice you haven't run into Lawson in any
22 competition, have you?

23 MR. YATES: Objection, asked and answered.

24 A I, personally, have not run into Lawson.

4 MR. BROWN: I will show you what is marked
5 as Government Exhibit 61. Back on the record. Back
6 on the record. I will show you what's been marked as
7 Government Exhibit 61.

8 (Government Deposition Exhibit No. 61 was
9 marked for identification and was attached to the
10 transcript.)

11 BY MR. BROWN:

12 Q Could you please take a quick look at that,
13 Mr. Dortenzo?

14 A Sure.

15 Q This is a document that was produced
16 pursuant to Oracle's subpoena, it's marked DS 000010,
17 to 11, and the title of the document is Deloitte
18 Public Sector, have you had a chance to see the
19 document, take a look at it?

20 A Yes.

21 Q Do you know if this is some additional
22 material that -- that -- that Deloitte has prepared to
23 discuss its -- its implementation and enterprise ERP
24 services with respect to the public sector?

25 A Yes, I do believe that is the case.

00427

1 Q Okay. And I just like to refer you for a
2 moment, if you could, to the second page, which is
3 Bates stamped 000011, in the middle column; do you see
4 that?

5 A Yes, I do.

6 Q Now, there's a bullet point on that page,
7 and -- and then there's several dashes. Do you see
8 the last dash, where it says performance management?

9 A Yes.

10 Q Now, in that, if you go down to the -- to
11 the second sentence on that dash, it says: Our group
12 of trained Lawson professionals, comprising more
13 Lawson certified consultants than any other Lawson
14 business partner, specializes in the implementations
15 of Lawson software applications, including financials,
16 HR, payroll, procurement and enterprise relationship
17 management.

18 Are you familiar with the claim that
19 Deloitte makes that -- that -- that it is -- that its
20 Lawson practice comprises the largest of -- of all the
21 -- the partners of Lawson?

22 A I was not familiar with that statement.

23 Q Do you have any reason to believe that
24 that's not an accurate statement?

25 A I don't have a basis to judge it, no.

21 Q Now, of the -- the software, of the ERP
22 software that's used by Deloitte's clients, what
23 software, what ERP software is most configurable?
24 A I don't know that there's one that is most
25 configurable. I consider the software partners that

00429

1 we've got alliances with to all have highly
2 configurable solutions, otherwise we would not have
3 qualified them onto that partner list. So I'm not
4 sure that you can compare one to the other and say
5 most configurable.

6 Q Okay. Well, did you -- is it -- is it --
7 are PeopleSoft, SAP and Oracle the most configurable
8 of the -- of the financial management and the HR
9 package software?

10 A Again, I am not sure about most, Kent. I
11 don't know that I can say most. I don't have
12 familiarity with Lawson's financial configurability or
13 any of the other softwares that we've talked about to
14 say that they're the most. They are three highly
15 configurable products.

16 Q All right. Are you aware of any software
17 that's more configurable than PeopleSoft, Oracle and
18 SAP for their financials or HR management functions?

19 A No.

20 Q In your examination this morning you
21 discussed -- you discussed the example of , do you
22 recall?

REDACTED

23 A I do.

24 Q And -- and I think in that examination, in
25 your examination, you discussed that, that was

REDACTED

00430

1 on one ERP system, that was SAP, and -- and was on
2 another ERP system, that was Oracle; is that correct?

REDACTED

3 A Yes.

4 Q And that a decision was made to converge
5 onto SAP; is that correct?

6 MR. YATES: Objection, argumentative,
7 mischaracterizes the witness' testimony.

8 A That was correct.

9 Q But that in the meantime there is a --
10 there have been efforts made to -- to -- to integrate
11 those systems so that they can continue operating
12 while the convergence -- convergence is taking place;
13 is that accurate?

14 A Not so much to integrate the systems, but
15 to take the outputs of those particular systems so
16 that they could meet their financial reporting
17 requirements.

18 Integrating those two systems would mean
19 that there is interfacing or the passing of data back
20 and forth between the systems. So that's not what I
21 was inferring. I was inferring to meet the
22 requirements they did as I just stated.

23 Q And -- and can you tell me what is the --
24 what are the advantages to a -- for a firm like to
25 integrate, or not integrate, but to converge onto just

REDACTED

00431

1 one platform?

2 A The advantages would be to reduce the
3 complexity associated with its technology environment.
4 Therefore, they would have one software vendor from
5 which to administer maintenance programs and one
6 software to maintain. So, that's -- that's attractive
7 from a cost of maintenance perspective.

8 It's also attractive because it could,
9 perhaps, reduce the amount of manpower, people power
10 that's required to support that from an hours of
11 maintenance perspective.

12 And it would provide a single systems
13 interface to the user or organization so that everyone
14 would have a common system and a common language in a
15 common toll set for transacting business. Those are
16 the primary best benefits I believe that would be
17 there.

18 MR. BROWN: Okay. I just want to show you
19 a document that we will mark as Government Exhibit 62?

20 (Government Deposition Exhibit No. 62 was
21 marked for identification and was attached to the
22 transcript.)

23 Q Have you had a chance to look at
24 Government's Exhibit 62, Mr. Dortenzo?

25 A I have.

00432

1 Q This document was produced pursuant to -- I
2 think this was in response to the -- I'm not sure if
3 this was in response to the government's subpoena or
4 to Oracle's subpoena, but it's numbered DEL 015304
5 through 15320, and it purports to be a project Gemini,
6 Gemini North American ERP road map regarding .
7 Are you familiar with -- with that project in
8 Deloitte?

REDACTED

9 A I was familiar with that client, and a
10 little bit about this project, yes.

11 Q Okay. Is -- do you know if Government
12 Exhibit 62 is a -- is a presentation that Deloitte
13 prepared for presentation to the steering committee
14 for the -- for the client?

REDACTED

15 A That is the case.

16 Q And was this document prepared in the
17 ordinary course of business at Deloitte?

18 A Yes.

19 Q And has it been kept in the ordinary course
20 of business?

21 A Yes.

22 Q Was the project actually presented to -- to
23 ?

REDACTED

24 A Yes, it was.

25 Q Okay. Was -- this is -- is this a project

00433

1 that was being evaluated similar to the -- the REDACTED
2 project in which had to make a decision as to REDACTED
3 whether it should continue on two separate ERP systems
4 or go with a -- a third option?

5 A There were similarities between the two
6 projects. I think the company had grown, , the REDACTED
7 company had grown on a decentralized basis, and had
8 disparate and separate solutions, different solutions,
9 I should say, as opposed to , who was the result of REDACTED
10 a merger.

11 Q Uh-huh.

12 A So I think that's the one difference that
13 exists, Kent, between the two.

14 Q But in the case of there was Oracle REDACTED
15 ERP solution in the United States and -- and SAP was
16 on -- on -- was -- was conducting the Canadian
17 operations; is that correct?

18 A That's right.

19 Q And was there an evaluation made as to
20 whether should move onto a single system? REDACTED

21 A Yes, that was the case.

22 Q And if you turn to -- if you turn to page
23 -- to page four, DEL 015308, is that -- is the -- if
24 you look at the table there's a -- there's a column
25 called bridge, is this a -- is this a -- a -- another

00434

1 alternative that was evaluated as to whether the
2 company should continue with both its Oracle and its
3 SAP systems?

4 A Yes, I believe that is the case.

5 Q And -- and -- and did Deloitte recommend
6 that -- that not go forward with the bridge
7 solution?

REDACTED

8 A It did recommend that in this document,
9 yes.

10 Q And do you know why? Maybe, to help you, I
11 can refer you to -- to page three on DEL 015307. And
12 -- and did Deloitte recommend that consolidate
13 onto an SAP solution?

REDACTED

14 A It did.

15 Q But did it also conclude that there would
16 be significant benefits if Alcatel were -- were to
17 decide to conclude on the Oracle solution, were to
18 consolidate on the Oracle solution?

19 MR. YATES: Objection, vague.

20 A That is stated in the fourth bullet point
21 on page three, where it talks about business benefits,
22 that bridge would not --

23 Q Okay.

24 A -- meet that -- that criteria.

25 Q So, in that fourth bullet point does it say

00435

1 business benefits identified by consolidating on one

2 ERP will accrue regardless of the package chosen?

3 What does that mean?

4 A It means that the company should be

5 indifferent from a benefits attainment perspective

6 with respect to the software decision.

7 Q As between Oracle and SAP?

8 A That's right.

9 Q Now -- now should the -- now, the next

10 sentence says: These benefits will not accrue if

11 chooses the option three, bridging the SAP and

REDACTED

12 Oracle; what does that mean?

13 A Option three was a hybrid of using those

14 two packages.

15 Q Now, do you know why the benefits would not

16 accrue if the consolidation did not occur?

17 A On a business process perspective I would

18 not know when that would be the case. From a cost of

19 ownership and management of the software platforms I

20 would understand that they would have two sets of

21 costs by maintaining two different software platforms.

22 Q And was a -- was there a summary of the

23 costs of all three options on page 12, DEL 015316?

24 A Yes, there is.

25 Q And this is the implementation cost; is

00436

1 that correct?

2 A Yes.

3 Q And -- and -- and -- and the implementation

4 costs are cheaper for the bridge solution; is that

5 right?

6 A That's right.

7 Q Okay. Now, if you turn to the next page,

8 what is this page showing, page 13, DEL 1 --

9 A Thirteen?

10 Q Go ahead.

11 A I'm sorry, 13 is oriented towards the

12 support and maintenance costs required for all three

13 of the options.

14 Q And does it also conclude -- show a -- a

15 present value of the -- the total cost of all three

16 options?

17 A Yes, it does.

18 Q And -- and -- and -- and the option for

19 SAP, the total cost is 38 million; is that correct?

20 A Yes.

21 Q And for Oracle it's a little more than 53

22 million five hundred thousand?

23 A Yes.

24 Q And for the bridge solution it was 67

25 million?

00437

1 A Yes.

2 Q I just want to refer you for a moment to
3 Exhibit 103, which is on the screen. Now, do you
4 recall today that defense counsel showed you a letter
5 that discussed some data produced by Deloitte, Exhibit
6 1437?

7 A I do remember that.

8 Q Okay. Now -- now, the date on that letter
9 is October 17th, 2003; is that correct?

10 A That's right.

11 Q Okay. Now, do you recall in your testimony
12 you testified that the data that is on Exhibit --

13 MR. BROWN: Is it 103?

14 MR. YATES: Correct.

15 THE WITNESS: Mm-hmm.

16 BY MR. BROWN:

17 Q That the data that is on Exhibit 103 is the
18 same data as the exhibit that you discussed in your
19 declaration --

20 A Yes.

21 Q -- for the government?

22 A I do recall.

23 Q Which is Exhibit 104?

24 A Yes.

25 Q I want to show you your exhibit, your

00438

1 declaration. Okay. Now, if you look at your
2 declaration, in paragraph three do you see that --
3 that you're talking about spreadsheets that were
4 submitted to the United States Department of Justice
5 on January 12th, 2004?

6 A I do.

7 Q Okay. So, that's -- this is a -- a
8 different analysis or a different -- this is not the
9 same data as -- as the data that's discussed in the
10 October letter, it's a different set; is that correct?

11 MR. YATES: Objection, vague as to the data
12 and whether it's a completely different set.

14 Q Let me -- let me ask a slightly different
15 question that might help you to put this in
16 perspective.

17 Do you know if after Deloitte produced the
18 information that accompanied Mr. Weiss' letter, which
19 is document, what is it, 1437, that Deloitte was asked
20 to make corrections in the data and to provide more --
21 more definitive information about what the data --
22 what that -- what was included in that data?

23 A I do know that, I believe there was two
24 different submissions.

25 Q And -- and -- and was the second submission

00439

1 made on January 12, 2004?

2 A Yes, it was.

3 Q And -- and is that the -- the data that you
4 discuss in your declaration, Exhibit 104? If you look
5 at paragraph three.

6 A It is, with respect -- yes, it is.

7 Q Okay. Now -- now, with respect to the data
8 that was submitted on January 12th?

9 A Right.

10 Q Did you discuss in your declaration how the
11 designations were made for column A, the suspected
12 package column?

13 A We did. We did. Yes, I did.

14 Q And -- and -- and do you know -- and -- and
15 -- and did Deloitte use its best efforts within the
16 scope of looking at the information in the database to
17 identify the -- the company who was the -- the vendor
18 of the ERP system discussed on each project line in
19 Exhibit 103?

20 A Yes.

21 Q And I just want to -- if you go to the drop
22 down menu for column A, oh, uh-oh, the red one? Oh,
23 okay, I see. And -- and sort for SAP, you find that
24 there are 723 of 11 -- of 1109 entries; is that
25 correct?

00440

1 A That's right.

2 Q If you go to the drop down menu and sort
3 for Oracle how many entries are there?

4 A 127.

5 Q Okay. And if you go to the drop down menu
6 and sort for PeopleSoft how many entries are there?

7 A 134.

8 Q And if you go to the drop down menu and
9 sort for JD Edwards how many entries are there?

10 A 40.

11 Q And, finally, in the drop down menu is it
12 -- there's only one other firm listed, and that's
13 Retek; is that correct?

14 A That's right.

15 Q And you discussed Retek in your declaration
16 104; is that right?

17 A Yes.

18 Q And how many entries are there for Retek
19 listed on that?

20 A Seven.

21 Q Okay. Now, this data goes through October
22 10th, 2003; is that correct?

23 A Yes.

6 Q Okay. Now, counsel asked you about the
7 service about whether these were all financial
8 management or HR management projects, and you
9 indicated that there might be some CRM or SCM projects
10 on here; do you recall that testimony?
11 A I do.

7 Q Okay. Now, in the drop down menu there's
8 no Siebel. You have a partnership with Siebel or an
9 alliance with Siebel; is that correct?

10 A We have an alliance. We do have an
11 alliance with Siebel.

12 Q But Siebel isn't listed in any of these,
13 does that mean that -- that -- that a Siebel
14 implementation would be listed under a different
15 service area term in column C?

16 A There was a period of time when this, under
17 the dates that this data exists, that are CRM activity
18 was managed in a separate database, which is likely
19 where you would find the Siebel specific.

20 Q And were your supply chain implementations
21 also managed under a different service area?

22 A For a portion of that period of time the
23 same case would exist where supply chain and things
24 like an Ariba would show up on a separate list.

25 Q Okay. Okay, now, I want to refer you, if I

00447

1 could, to what counsel marked as -- as defense Exhibit

2 1434?

3 A Okay.

23 Q Did Deloitte make the same sort of
24 assessments in deciding whether or not these projects
25 were Lawson projects in Government (sic) Exhibit 1436?

00448

1 A Assessments, Kent, meaning? Could you
2 restate the question, just to make sure I understand
3 it?

4 Q Well, for example, did -- did Deloitte have
5 to -- did Deloitte have to make an assessment based on
6 information in the -- a decision based on information
7 into the -- that was entered in the database to
8 identify the -- the package as Lawson for some of
9 these projects?

10 A I think these entries, to the best of my
11 knowledge, were pulled directly from Lawson data. So,
12 I don't believe there was interpretation in
13 determining what went into column one.

14 Q Okay. Well, let me -- let me just look at
15 -- at -- at some of these, these entries.

16 First, if you look under the client name,
17 is it fact that many of these entries there's multiple
18 entries for the same client?

19 A That's fact.

20 Q So, even though there's four pages of
21 entries with multiple numbers of projects on the pages
22 there's a -- there's fewer numbers of clients involved
23 than there are entries; is that correct?

24 A That's correct.

25 Q And -- and second, is it -- is it the fact

00449

1 that -- is it a fact that a number of these projects
2 are not implementations?

3 A They are not -- the line items are not
4 implementations in and of themselves. The -- the
5 scope of work associated with the opportunity
6 description in all of these cases appears to be
7 related to an implementation project.

8 Q Is -- I'm looking at, for example, in the
9 middle of the first page of Exhibit 1436?

10 A Right.

11 Q Where -- do you see there's a -- there's a
12 number of projects for , Inc.?

REDACTED

13 A Yes.

14 Q And if you look at -- there's one that says
15 procurement support under the opportunity name and
16 opportunity description?

17 A Yes.

18 Q Is that an implementation project?

19 A That is services to be rendered to the
20 procurement function around their implementation. So
21 it may be trying to assist the buyers or procurement
22 agents in the course of their job responsibilities as
23 they operate the system. Otherwise it probably
24 wouldn't be on this list.

25 Q Okay. Well, you're saying otherwise it

00450

1 probably wouldn't be on the list, why are the projects
2 on the list in government Exhibit 103?

3 A Because those constituted the body of work
4 that we did around packages or our IES practice at the
5 time that the data -- the time consistent with the
6 data requests.

7 Q Are -- are the numbers that -- that you
8 read off for -- in column A, when we -- when we sorted
9 by SAP, Oracle, PeopleSoft and JD Edwards, are those
10 approximate representative of the -- of the numbers of
11 projects involving the ERP work you've done for -- for
12 those four vendors?

13 MR. YATES: Objection, over broad, vague as
14 to ERP.

15 A Yes.

16 Q Okay. Now, I think you said that this data
17 in Exhibit 1436 was -- was taken from your target
18 database?

19 A Yes.

20 Q Is that correct?

21 A I did say that.

22 Q Now -- now -- now, this data was not even
23 in the target database until 2004; is that correct?

24 A Yes.

25 Q So -- so that means that -- that -- that

00451

1 any data that is dated before 2004 came from another
2 -- was entered initially in some other system; is that
3 -- is that true?

4 A Or was maintained within our Deloitte and
5 Touche solution organizations, yes.

6 Q Somehow it was maintained somewhere in
7 another organization that you weren't a part of; is
8 that correct?

9 A That's right.

10 Q And you don't know how it was maintained,
11 do you?

12 A I am not familiar with their procedures.

13 Q And you don't know how it was recorded?

14 A No.

15 Q You don't know how they designated it; is
16 that correct?

17 A Other than what's reported here, now, yeah.

18 Q And the only thing you know is that there
19 was some effort to make some conversion into the
20 target database; is that correct?

21 MR. YATES: Objection, argumentative, over
22 broad.

23 A I knew that they tracked their
24 opportunities. I wasn't aware of the procedure and
25 that there was an effort made around conversion.

19 Q Now, can you tell when that project was?

20 A There is a reference to column SNT, also
21 stated on reference DS triple zero 111, that talks
22 about an indication of the win dates in column SNT,
23 which is the opportunity project start date and end
24 date. So in this particular line item there are start
25 dates of 1/1/2004, and end dates of 5/31/2004.

00454

1 Q Okay. So you --

2 A And that might be a more accurate

3 representation.

4 Q Okay. So you would look at the start dates

5 and the -- and the project end dates?

6 A The win date and the start date are usually

7 within days if not the same day of each other.

8 Q Okay. Very good.

17 Q Mr. Dortenzo, this morning you spoke about

18 ; do you recall that?

REDACTED

19 A Yes.

20 Q That's one of Deloitte's clients?

21 A Yes.

22 Q And in -- and if I understood you correctly

23 did you say that -- that acquired a general

REDACTED

24 ledger and an accounts payable packages, and is

25 implementing them in one after another?

00455

1 A That was their implementation strategy,
2 yes.

3 Q Okay. Now, what was the software that
4 acquired?

REDACTED

5 A Oracle. The product?

6 Q Yeah.

7 A Yeah, Oracle was the vendor. I'm sorry.
8 The vendor was Oracle.

9 Q Oracle general ledger and Oracle accounts
10 payable?

11 A That's right.

12 Q Okay. Now, did acquire any other,
13 at the same time, any other financial software from
14 another vendor to integrate together with its general
15 ledger and accounts payable system?

REDACTED

16 A No, they did not.

17 Q Okay. And -- and is it -- is it your -- is
18 it your experience that -- that companies are not
19 acquiring a variety of financial management modules to
20 -- to tie together, integrate together in one ERP
21 package?

22 MR. YATES: Objection, over broad.

23 A Companies pursue both strategies, of buying
24 all the financial modules at once, and some companies,
25 based on need, will buy certain of the financial

00456

1 modules, such as the case, GL, accounts

REDACTED

2 payable, etcetera, depending on their system strategy

3 and what business benefits they're trying to achieve.

4 Q Okay. Now, do you see the -- are the --

5 are the -- are the clients that you work with in

6 Deloitte have you seen any of those clients acquire

7 those components of the financial management system,

8 general ledger, accounts payable, accounts receivable

9 from different vendors and then integrate them

10 together?

11 A We have seen that in our practice.

12 Q Okay. When was the last time you saw that?

13 A I would say as a generalization, Kent, that

14 practice probably stopped around right after the year

15 2000.

16 Q Why did it stop?

17 A Companies started to evaluate their

18 purchases on -- on more of an integrated basis, for

19 the reasons that we discussed. I can't think of an

20 example where a company has purchased from two

21 different software vendors financial modules that's

22 occurred in at least my recent experience.

23 Q Okay. Do you know if is planning to

REDACTED

24 -- to expand its Oracle financial management system

25 beyond the general ledger in accounts payable?

00457

1 A That is the strategy, yes.

2 Q Do you have any idea which additional

3 modules they -- they ultimately are intending to

4 purchase?

5 A They're for general ledger, fixed assets,

6 accounts payable and accounts receivable on targets.

6 Q On Exhibit 1436, Mr. Dortenzo. It's your
7 understanding that Exhibit 1436 -- and this is the
8 spreadsheet of Lawson wins -- it's your understanding
9 that this information was kept in a database
10 maintained in the ordinary course of business by
11 Deloitte and Touche; is that correct?

12 A That's correct.

13 Q And it's currently been migrated into a
14 database that's been a database for the entire
15 Deloitte organization?

16 MR. BROWN: Can I make one objection? I
17 object as to speculation the question about what the
18 -- how it was kept at Deloitte and Touche.

19 BY MR. YATES:

20 Q And, Mr. Dortenzo, within the Deloitte
21 organization, at the moment, does Deloitte and -- do
22 Deloitte employees rely on information found in the
23 target system such as Exhibit 1436?

24 A Yes.